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COMMONWEALTH OF PENNSYLVANIA
EDWARD MARTIN, Governor

DEPARTMENT OF LABOR AND INDUSTRY
WILLIAM H. CHESNUT, Secretary

PENNSYLVANIA WORKMEN'S COMPENSATION AND OCCUPATIONAL DISEASE LAWS

HARRISBURG, PENNSYLVANIA
1945

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THE PENNSYLVANIA WORKMEN'S COMPENSATION ACT

EFFECTIVE JULY 1, 1945

ACT OF JUNE 21, 1939

PAMPHLET LAW 520

AS AMENDED

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* Occupational disease only.

No. 281

AN ACT

To further reenact and amend the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," changing maximum and minimum rates, periods, total amounts and aggregate of compensation; changing the system of computation of wages for compensation purposes; changing practice and rules of evidence; defining earning power after accident; authorizing the board to terminate compensation in certain cases; changing the classes of dependents entitled to compensation in case of death; increasing powers and duties of the board; and imposing additional penalties; authorizing the department, the board and the referees to approve compromise agreements in certain cases, and generally amending, clarifying and changing the provisions of said act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Act of June 2, 1915 (P. L. 736), as reenacted and amended by act of June 4, 1937 (P. L. 1552), further reenacted and amended.

Section 1. The act approved the second day of June one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," as reenacted and amended by the act, approved the fourth day of June, one thousand nine hundred and thirty-seven (Pamphlet Laws, one thousand five hundred fifty-two), is hereby further reenacted and amended to read as follows:

ARTICLE I

Interpretation and Definitions

Definitions.

Section 101. That this act shall be called and cited as The Pennsylvania Workmen's Compensation Act, and shall apply to all accidents occurring within this Commonwealth, irrespective of the place where the contract of hiring was made, renewed, or extended, and shall not apply to any accident occurring outside of the Commonwealth, except to accidents occurring to Commonwealth employes outside the Commonwealth while such employes are engaged in duly authorized business of the Commonwealth, and except accidents occurring to Penn-

sylvania employes whose duties require them to go temporarily beyond the territorial limits of the Commonwealth, not over ninety days, when such employes are performing services for employers whose place of business is within the Commonwealth.

Singular, plural.

Section 102. Wherever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included.

Employer.

Section 103. The term "employer," as used in this act, is declared to be synonymous with master, and to include natural persons, partnerships, joint-stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth, and all governmental agencies created by it.

Employe.

Section 104. The term "employe," as used in this act is declared to be synonymous with servant, and includes—

All natural persons who perform services for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer, and exclusive of persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired, or adapted for sale in the worker's own home, or on other premises, not under the control or management of the employer.

Independent contractors.

Section 105. The term "contractor," as used in article two, section two hundred and three, and article three, section three hundred and two (b), shall not include a contractor engaged in an independent business, other than that of supplying laborers or assistants, in which he serves persons other than the employer in whose service the accident occurs, but shall include a sub-contractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

Powers and duties.

Section 106. The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

Department.

Section 107. The term "Department," when used in this act, shall mean the Department of Labor and Industry of this Commonwealth.

Board.

The term "Board," when used in this act shall mean The Workmen's Compensation Board of this Commonwealth.

ARTICLE II

Damages by Action at Law

Section 201. That in any action brought to recover damages for personal injury to an employe in the course of his employment, or for death resulting from such injury, it shall not be a defense—

(a) That the injury was caused in whole or in part by the negligence of a fellow employe; or

(b) That the employe had assumed the risk of the injury; or

Intoxication.

(c) That the injury was caused in any degree by the negligence of such employe, unless it be established that the injury was caused by such employe's intoxication or by his reckless indifference to danger. The burden of proving such intoxication or reckless indifference to danger shall be upon the defendant, and the question shall be one of fact to be determined by the jury.

Negligence of employe not a barrier.

Section 202. The employer shall be liable for the negligence of all employes, while acting within the scope of their employment, including engineers, chauffeurs, miners, mine-foremen, fire-bosses, mine superintendents, plumbers, officers of vessels, and all other employes licensed by the Commonwealth or other governmental authority, if the employer be allowed by law the right of free selection of such employes from the class of persons thus licensed; and such employes shall be the agents and representatives of their employers and their employers shall be responsible for the acts and neglects of such employes, as in the case of other agents and employes of their employers; and, notwithstanding the employment of such employes, the property in and about which they are employed, and the use and operation thereof, shall at all times be under the supervision, management and control of their employers.

Section 203. An employer who permits the entry upon premises occupied by him or under his control of a laborer or an assistant hired by an employe or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to such employe or contractor, shall be liable to such laborer or assistant in the same manner and to the same extent as to his own employe.

Agreement outside the act not valid.

Section 204. No agreement, composition, or release of damages made before the date of any accident, except the agreement defined in article three of this act, shall be valid or shall bar a claim for damages for the injury resulting therefrom; and any such agreement, other than that defined in article three herein, is declared to be

against the public policy of this Commonwealth. The receipt of benefits from any association, society, or fund shall not bar the recovery of damages by action at law, nor the recovery of compensation under article three hereof; and any release executed in consideration of such benefits shall be void.

ARTICLE III

Elective Compensation

Self-inflicted injury.

Section 301. (a) When employer and employe shall by agreement, either express or implied, as hereinafter provided, accept the provisions of article three of this act, compensation for personal injury to, or for the death of such employe, by an accident, in the course of his employment, shall be paid in all cases by the employer, without regard to negligence, according to the schedule contained in sections three hundred and six and three hundred and seven of this article; provided that no compensation shall be paid when the injury or death is intentionally self inflicted, or is caused by the employe's violation of law, but the burden of proof of such fact shall be upon the employer.

(b) The right to receive compensation under this act shall not be affected by the fact that a minor is employed or is permitted to be employed in violation of the laws of this Commonwealth relating to the employment of minors, or that he obtained his employment by misrepresenting his age.

Injury.

(c) The terms "injury" and "personal injury," as used in this act, shall be construed to mean only violence to the physical structure of the body, and such disease or infection as naturally results therefrom; and wherever death is mentioned as a cause for compensation under this act, it shall mean only death resulting from such violence and its resultant effects, and occurring within three hundred weeks after the accident. The term "injury by an accident in the course of his employment," as used in this article, shall not include an injury caused by an act of a third person intended to injure the employe because of reasons personal to him, and not directed against him as an employe or because of his employment; but shall include all other injuries sustained while the employe is actually engaged in the furtherance of the business or affairs of the employer, whether upon the employer's premises or elsewhere, and shall include all injuries caused by the condition of the premises or by the operation of the employer's business or affairs thereon, sustained by the employe, who, though not so engaged, is injured upon the premises occupied by or under the control of the employer, or upon which

the employer's business or affairs are being carried on, the employe's presence thereon being required by the nature of his employment.

Contract of hiring.

Section 302. (a) In every contract of hiring made after December thirty-first, one thousand nine hundred and fifteen, and in every contract of hiring renewed or extended by mutual consent, expressed or implied, after said date, it shall be conclusively presumed that the parties have accepted the provisions of article three of this act, and have agreed to be bound thereby, unless there be, at the time of the making, renewal, or extension of such contract, an express statement in writing, from either party to the other, that the provisions of article three of this act are not intended to apply, and unless a true copy of such written statement, accompanied by proof of service thereof upon the other party, setting forth under oath or affirmation the time, place, and manner of such service, be filed with the department within ten days after such service. Every contract of hiring, oral, written, or implied from circumstances, now in operation, or made or implied on or before December thirty-first, one thousand nine hundred and fifteen, shall be conclusively presumed to continue subject to the provisions of article three hereof, unless either party shall, on or before said date, in writing, have notified the other party to such contract that the provisions of article three hereof are not intended to apply, and unless there shall be filed with the department a true copy of such notice, together with proof of service, within the time and in the manner hereinabove prescribed: Provided, however, That the provisions of this section shall not be so construed as to impair the obligation of any contract now in force, or invalidate any acceptance or rejection of the provisions of article three of the Workmen's Compensation Act heretofore in force, but such prior acceptance or rejection shall continue unimpaired under this act until notice is given as provided in section three hundred four hereof. In the employment of minors, article three shall be presumed to apply, unless the said written notice be given by or to the parent or guardian of the minor. It shall not be lawful for any officer or agent of this Commonwealth, or for any county, city, borough, town, or township therein, or for any officer or agent thereof, or for any other governmental authority created by the laws of this Commonwealth, to give such notice of rejection of the provisions of this article, to any employe of the Commonwealth or of such governmental agency.

(b) After December thirty-first, one thousand nine hundred and fifteen, an employer who permits the entry, upon the premises occupied by him or under his

control, of a laborer or an assistant hired by an employe or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to that employe or contractor, shall be conclusively presumed to have agreed to pay to such laborer or assistant compensation in accordance with the provisions of article three, unless the employer shall post in a conspicuous place, upon the premises where the laborer's or assistant's work is done, a notice of his intention not to pay such compensation, and unless there be filed with the department within ten days thereafter, a true copy of such notice, together with proof of the posting of the same, setting forth upon oath or affirmation the time, place, and manner of such posting; and after December thirty-first, one thousand nine hundred and fifteen, any such laborer as assistant who shall enter upon premises occupied by or under control of such employer, for the purpose of doing such work, shall be conclusively presumed to have agreed to accept the compensation provided in article three, in lieu of his right of action under article two, unless he shall have given notice in writing to the employer, at the time of entering upon such employer's premises for the purpose of doing his work, of his intention not to accept such compensation, and unless within ten days thereafter, there shall have been filed with the department a true copy of such notice, accompanied by proof of service thereof upon such employer, setting forth under oath or affirmation the time, place, and manner of such service. And in such cases, where article three binds such employer and such laborer or assistant, it shall not be in effect between the intermediate employer or contractor and such laborer or assistant, unless otherwise expressly agreed.

Rejection of the act.

Acceptance.

Section 303. Such agreement shall constitute an acceptance of all the provisions of article three of this act, and shall operate as a surrender by the parties thereto of their rights to any form or amount of compensation or damages for any injury or death occurring in the course of the employment, or to any method of determination thereof, other than as provided, in article three of this act. Such agreement shall bind the employer and his personal representatives, and the employe, his or her wife or husband, widow or widower, next to kin, and other dependents.

Notice of termination to be filed in Bureau.

Section 304. Any agreement between employer and employe for the operation or non-operation of the provisions of article three of this act may be terminated prior to any accident, by either party, upon thirty days' notice to the other in writing, if a copy of such notice, with proof of service, be filed in the department, as provided in section three hundred and two of this article.

Section 305. Every employer liable under this act to pay compensation shall insure the payment of compensation in the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in this Commonwealth, unless such employer shall be exempted by the department from such insurance. An employer desiring to be exempt from insuring the whole or any part of his liability for compensation shall make application to the department, showing his financial ability to pay such compensation, whereupon the department, if satisfied of the applicant's financial ability, shall, upon the payment of a fee of twenty-five dollars ($25.00), issue to the applicant a permit authorizing such exemption. From a refusal of the department to issue such permit, an appeal shall lie to the court of common pleas of Dauphin County. In any such appeal the only question shall be whether the department abused its discretion in refusing such permit. The department shall establish a period of twelve (12) calendar months, to begin and end at such times as the department shall prescribe, which shall be known as the annual exemption period. Unless previously revoked, all permits issued under this section shall expire and terminate on the last day of the annual exemption period for which they were issued. Permits issued under this act shall be renewed upon the filing of an application, and the payment of a renewal fee of twenty-five dollars ($25.00). The department may, from time to time, require further statements of the financial ability of such employer, and, if at any time such employer appear no longer able to pay compensation, shall revoke its permit granting exemption, in which case the employer shall immediately subscribe to the State Workmen's Insurance Fund, or insure his liability in any insurance company or mutual association or company, as aforesaid.

Self-insurance.

If any employer fails to comply with the provisions of this section such employer shall be guilty of a misdemeanor, and, upon conviction thereof for every such failure, shall be sentenced to pay a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and costs of prosecution, or imprisonment for a period of not more than six months, or both, at the discretion of the court. Every day's violation shall constitute a separate offense. It shall be the duty of the department to enforce the provisions of this section; and it shall investigate all violations that are brought to its notice and shall institute prosecutions for violations thereof. All fines recovered under the provisions of this section shall be paid by the clerk of the court to the department, and by it paid into the State Treasury.

Penalty.

Enforcement.

Fines.

In any proceeding against an employer under this section, a certificate of non-insurance issued by the official Workmen's Compensation Rating and Inspection Bureau and a certificate of the department showing that the defendant has not been exempted from obtaining insurance under this section, shall be prima facie evidence of the facts therein stated.

Schedule of compensation.

Section 306. The following schedule of compensation is hereby established for injuries resulting in total disability:

Total disability.

(a) For the first five hundred weeks after the seventh day of total disability, sixty-six and two-thirds per centum of the wages of the injured employe as defined in section three hundred and nine; but the compensation shall not be more than twenty dollars per week nor less than ten dollars per week, and shall not exceed in the aggregate the sum of ten thousand dollars; Provided, That, if at the time of the injury the employe receives wages of less than ten dollars per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than five dollars per week. Nothing in this clause shall require payment of compensation after disability shall cease. Should partial disability be followed by total disability, the period of five hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

Partial disability.

(b) For disability partial in character (except the particular cases mentioned in clause (c)) sixty-six and two-thirds per centum of the difference between the wages of the injured employe, as defined in section three hundred and nine, and the earning power of the employe thereafter; but such compensation shall not be more than seventeen dollars per week. This compensation shall be paid during the period of such partial disability, not, however, beyond three hundred weeks after the seventh day of disability. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this clause shall be reduced by the number of weeks during which compensation was paid for total disability. The term "earning power," as used in this section, shall in no case be less than the weekly amount which the employe receives after the accident.

"Earning power."

Permanent injuries.

(c) For all disability resulting from permanent injuries of the following classes, the compensation shall be exclusively as follows:

For the loss of a hand, sixty-six and two-thirds per centum of wages during one hundred and seventy-five weeks.

For the loss of a forearm, sixty-six and two-thirds per centum of wages during one hundred and ninety-five weeks.

For the loss of an arm, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of a foot, sixty-six and two-thirds per centum of wages during one hundred and fifty weeks.

For the loss of a lower leg, sixty-six and two-thirds per centum of wages during one hundred and eighty weeks.

For the loss of a leg, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of an eye, sixty-six and two-thirds per centum of wages during one hundred and twenty-five weeks.

For the complete loss of hearing, in both ears, sixty-six and two-thirds per centum of wages during one hundred and fifty weeks.

For the loss of a thumb, sixty-six and two-thirds per centum of wages during sixty weeks.

For the loss of a first finger, commonly called index finger, sixty-six and two-thirds per centum of wages during thirty-five weeks.

For the loss of a second finger, sixty-six and two-thirds per centum of wages during thirty weeks.

For the loss of a third finger, sixty-six and two-thirds per centum of wages during twenty weeks.

For the loss of a fourth finger, commonly called little finger, sixty-six and two-thirds per centum of wages during fifteen weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered equivalent to the loss of one-half of such thumb or finger, and shall be compensated at the same rate as for the loss of a thumb or finger, but for one-half of the period provided for the loss of a thumb or finger.

The loss of more than one phalange of a thumb or finger shall be considered equivalent to the loss of the entire thumb or finger.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

For the loss of a great toe, sixty-six and two-thirds per centum of wages during forty weeks.

For the loss of any other toe, sixty-six and two-thirds per centum of wages during sixteen weeks.

The loss of the first phalange of the great toe, or of any toe, shall be considered equivalent to the loss of one-half of such great toe, or other toe, and shall be compensated at the same rate as for the loss of a great toe, or other toe, but for one-half of the period provided for the loss of a great toe or other toe.

The loss of more than one phalange of a great toe, or any toe, shall be considered equivalent to the loss of the entire great toe or other toe.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

Disfigurement.

For serious and permanent disfigurement of the head, or face, of such a character as to produce an unsightly appearance, and such as is not usually incident to the employment, sixty-six and two-thirds per centum of wages not to exceed one hundred and fifty weeks.

Unless the board shall otherwise determine, the loss of both hands or both arms or both feet or both legs or both eyes shall constitute total disability to be compensated according to the provisions of clause (a).

Amputation.

Amputation at the wrist shall be considered as the equivalent of the loss of a hand, and amputation at the ankle shall be considered as the equivalent of the loss of a foot. Amputation between the wrist and the elbow shall be considered as the loss of a forearm, and amputation between the ankle and the knee shall be considered as the loss of a lower leg. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg, eye, finger, or thumb, great toe, or other toe, shall be considered as the equivalent of the loss of such hand, arm, foot, leg, eye, finger, or thumb, great toe or other toe.

Rate of compensation.

This compensation shall not be more than twenty dollars per week nor less than ten dollars per week: Provided, That if at the time of injury the employe receives wages of less than ten dollars per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than five dollars per week.

When compensation begins.

(d) The period of five hundred weeks mentioned in clause (a), three hundred weeks mentioned in clause (b), and the specific periods (or aggregate specific periods as the case may be) mentioned in clause (c), shall begin to run seven days after disability begins, and shall run concurrently.

(e) No compensation shall be allowed for the first seven days after disability begins, except as hereinafter provided in clause (f) of this section.

(f) During the first sixty days after disability begins, the employer shall furnish reasonable surgical and medical services, medicines, and supplies, as and when needed, unless the employe refuses to allow them to be furnished by the employer. The cost of such services, medicines, and supplies shall not exceed one hundred

Surgical and medical services.

and fifty dollars ($150), except that the board, upon petition of the claimant, may grant extra medical services for an additional thirty days, not to exceed seventy-five dollars ($75). If the employer shall, upon application made to him, refuse to furnish such services, medicines, and supplies, the employe may procure same and shall receive from the employer the reasonable cost thereof within the above limitations. In addition to the above service, medicines and supplies, hospital treatment, services and supplies shall be furnished by the employer for the said period of sixty days, except that the board, upon petition of the claimant, may grant an additional thirty days. The cost for such hospital treatment, service and supplies shall not in any case exceed the prevailing charge in the hospital for like services to other individuals. If the employe shall refuse reasonable surgical, medical and hospital services, treatment, medicines and supplies, tendered to him by his employer, he shall forfeit all rights to compensation for any injury or any increase in his incapacity shown to have resulted from such refusal.

Refusal of employe.

(g) Should the employe die as a result of the injury, the period during which compensation shall be payable to his dependents, under section three hundred and seven of this article, shall be reduced by the period during which compensation was paid to him in his lifetime under this section of this article. No reduction shall be made for the amount which may have been paid, or contracted to be paid, for medical and hospital services and medicines, nor for the expenses of the last sickness and burial. Should the employe die from some other cause than the injury, the liability for compensation shall cease.

No reduction.

(h) Where claim is made for hernia, claimant must notify the employer or a representative of the employer within forty-eight hours after the occurrence of the accident.

Hernia.

Act 410, July 1, 1945.

Section 306.1 If an employe, who has incurred (through accident or otherwise) permanent partial disability, through the loss, or loss of use of, one hand, one arm, one foot, one leg or one eye, incurs total disability through a subsequent injury, causing loss, or loss of use of, another hand, arm, foot, leg or eye, he shall be entitled to additional compensation as follows:

Second injury.

After the cessation of payments by the employer for the period of weeks prescribed in Clause (c) hereof, for the subsequent injury, additional compensation shall be paid during the continuance of total disability, at the weekly compensation rate applicable for total disability, for the remainder of the five hundred week period pro-

vided in Clause (a) hereof. This additional compensation shall be paid by the Commonwealth only upon an award by a compensation referee or the board. All claims for such additional compensation shall be forever barred unless the employe shall have filed a petition therefor with the board within one year after the last payment made under Clause (c) hereof. The sum of one hundred thousand dollars ($100,000) is hereby appropriated to the Department of Labor and Industry for compensation payable, by the Commonwealth, under this section, for the biennium one thousand nine hundred and forty-five—one thousand nine hundred forty-seven.

The Department of Labor and Industry shall be charged with the conservation of the assets of said appropriation. In furtherance of this purpose, the Attorney General shall appoint a member of his staff to represent the Commonwealth in all proceedings brought to enforce claims against the Commonwealth. In its award the Workmen's Compensation Board of the * Department of Labor and Industry shall specifically find the amount the injured employe shall be paid weekly, the number of weeks compensation which shall be paid by the employer, the date upon which payments out of the State appropriation shall begin, and if possible the length of time such payments shall continue; all payments to cease upon the death of claimant.

Any benefits received by any employe, or to which he may be entitled, by reason of such disability, from any State or Federal fund or agency to which said employe has not directly contributed, shall be regarded as a credit to any award made against the Commonwealth as aforesaid.

Compensation in case of death of employe.

Section 307. In case of death, compensation shall be computed on the following basis, and distributed to the following persons:

To child or children.

1. If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children, or, if there be no guardian to such other persons as may be designated by the board as hereinafter provided, as follows:

(a) If there be one child, twenty-five per centum of wages of deceased, but not in excess of seven dollars per week.

(b) If there be two children, thirty-five per centum of wages of deceased, but not in excess of ten dollars per week.

* "of the" omitted in original.

(c) If there be three children, forty-five per centum of wages of deceased, but not in excess of thirteen dollars per week.

(d) If there be four children, fifty-five per centum of wages of deceased, but not in excess of sixteen dollars per week.

(e) If there be five children, sixty-two and one-half per centum of wages of deceased, but not in excess of eighteen dollars per week.

(f) If there be six or more children, sixty-six and two-thirds per centum of wages of deceased, but not in excess of twenty dollars per week.

To widow or widower, if no children.

2. To the widow or widower, if there be no children, forty-four per centum of wages, but not in excess of twelve dollars per week.

If one child.

3. To the widow or widower, if there be one child, fifty-three per centum of wages, but not in excess of fifteen dollars per week.

If two children.

4. To the widow or widower, if there be two children, sixty-two and one-half per centum of wages, but not in excess of eighteen dollars per week.

If three or more children.

4½. To the widow or widower, if there be three or more children, sixty-six and two-thirds per centum of wages, but not in excess of twenty dollars per week.

To father or mother.

5. If there be neither widow, widower, nor children entitled to compensation, then to the father or mother, if dependent to any extent upon the employe at the time of the accident, twenty-five per centum of wages, but not in excess of six dollars per week: Provided, however, That in the case of a minor child who has been contributing to his parents, the dependency of said parents shall be presumed: And provided further, That if the father or mother was totally dependent upon the deceased employe at the time of the accident, the compensation payable to such father or mother shall be forty-five per centum of wages, but not in excess of eleven dollars per week.

Proviso.

Proviso.

To brothers and sisters.

6. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, fifteen per centum of wages, for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of twenty-five per centum, such compensation to be paid to their guardian, or, if there be no guardian, to such other person as may be designated by the board, as hereinafter provided.

Expense of burial.

7. Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding two hundred dollars, which shall be paid by the employer or

insurer directly to the undertaker (without deduction of any amounts theretofore paid for compensation or for medical expenses).

When compensation shall be payable.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, or sister is under the age of sixteen. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him and receiving from him a substantial portion of her support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. If members of decedent's household at the time of his death, the terms "child" and "children" shall include step-children, adopted children and children to whom he stood in loco parentis, and shall include posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, That upon remarriage of any widow, the compensation of such widow shall continue as hereinbefore provided for one-third of the period during which compensation then remains payable to her: Provided further, That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

"Child" and "children".

Remarriage of widow.

Meretricious relationship.

Basis of compensation.

The wages upon which death compensation shall be based shall not in any case be taken to exceed thirty dollars per week,* nor be less than seventeen dollars per week.

When compensation shall be payable.

This compensation shall be paid during three hundred weeks, and in the case of children entitled to compensation under this section, the compensation of each child shall continue, after said period of three hundred weeks, until such child reaches the age of sixteen, at the rate of seventeen and one-half per centum of wages, but not in excess of four and a half dollars per week, if there is one child; twenty-seven and one-half per centum of wages, but not in excess of seven dollars per week, if

* "weeks" in original.

there are two children; thirty-eight and one-half per centum of wages, but not in excess of ten dollars per week, if there are three children; fifty per centum of wages, but not in excess of thirteen dollars per week, if there are four children; fifty-five per centum of wages, but not in excess of fourteen dollars per week, if there are five children; and sixty per centum of wages, but not in excess of sixteen dollars per week, if there are six children or more.

Payment to guardian.

The board may, if the best interest of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a widow or a widower on account of any child or children, to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board, as hereinafter provided, may direct. If there be no guardian or committee of any minor, dependent, or insane employe, or * dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent, or insane employe, or dependent may be paid to any surviving parent, or to such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent, or insane employe, or dependent to be paid, to render, as and when it shall so order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Account.

Bond.

Section 308. Except as hereinafter provided, all compensation payable under this article shall be payable in periodical instalments, as the wages of the employe were payable before the accident.

Section 309. Wherever in this article the term "wages" is used, it shall be construed to mean the average weekly wages of the employe, ascertained as follows:

(a) If at the time of the accident the wages are fixed by the week, the amount so fixed shall be the average weekly wage;

(b) If at the time of the accident the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve and divided by fifty-two;

(c) If at the time of the accident the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two;

* "of" in original.

Method of determining wages to arrive at compensation rate.

(d) If at the time of the accident the wages are fixed by the day, hour, or by the output of the employe, the average weekly wage shall be the wage most favorable to the employe, computed by dividing by thirteen the total wages of said employe earned in the employ of the employer in the first, second, third, or fourth period of thirteen consecutive calendar weeks in the fifty-two weeks immediately preceding the accident, or in case the employe receives wages, monthly or semi-monthly, by dividing by thirteen the total wages of said employe earned in the employ of the employer in the first, second, third, or fourth period of three consecutive calendar months in the year immediately preceding the accident;

Tenure of employment no barrier.

If the employe has been in the employ of employer less than thirteen calendar weeks (or three calendar months, if the employe receives wages monthly or semi-monthly) immediately preceding the accident, his average weekly wage shall be computed under the foregoing paragraph, taking "total wages" for such purpose to be the amount he would have earned had he been so employed by employer the full thirteen calendar weeks (or three calendar months) immediately preceding the accident and had worked, when work was available to other employes in a similar occupation, unless it be conclusively shown that by reason of exceptional causes such methods of computation does not ascertain fairly the "total wages" of employe so employed less than thirteen calendar weeks (or three calendar months);

(e) In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fiftieth of the total wages which the employe has earned from all occupations during the twelve calendar months immediately preceding the accident, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not ascertain fairly the earnings of the employe, in which case the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his average weekly earnings.

The terms "average weekly wage" and "total wages," as used in this section, shall include board and lodging received from the employer, and when so received, the board shall be rated at fifty cents per day, and board together with lodging shall be rated at one dollar per day, but such terms shall not include gratuities received from the employer or others, nor shall such terms include amounts deducted by the employer under the contract of hiring for labor furnished or paid for by the employer and necessary for the performance of such contract by the employe, nor shall such terms include

deductions from wages due the employer for rent and supplies necessary for the employe's use in the performance of his labor.

Where the employe is working under concurrent contracts with two or more employers and the defendant employer has knowledge of such employment prior to the accident, his wages from all such employers shall be considered as if earned from the employer liable for compensation.

Non-resident alien dependents.

Section 310. Alien widows, children, widowers, parents, brothers, and sisters, not residents of the United States, shall not be entitled to any compensation.

Notice to employer of injury.

Section 311. Unless the employe or someone in his behalf, or some of the dependents or someone in their behalf, shall give notice thereof to the employer within fourteen days after the accident, no compensation shall be due until such notice be given, and, unless such notice be given within ninety days after the occurrence of the injury, no compensation shall be allowed.

Forms.

Section 312. The notice referred to in section three hundred and eleven hereof shall be substantially in the following form:

To (name of employer).

You are hereby notified that an injury of the following character (.....) was suffered by (name of employe injured), who was in your employment at (place), while engaged as (kind of employment) on or about the (.....) day of (.....), Anno Domini (.....), and that compensation will be claimed therefor.

Date .....: Signed (.....).

But no variation from this form shall be material if the notice be sufficient to inform the employer that a certain employe, by name, received an injury, the character of which is described in ordinary language, in the course of his employment on or about a time specified and at or near a place specified.

Notice of accident, how served.

Section 313. The notices referred to in section three hundred and two and section three hundred and eleven hereof may be served personally upon the employer or upon the manager or superintendent in charge of the works or business in which the accident occurred, or by sending them through the registered mail to the employer at his or its last known residence or place of business, or, if the employer be a corporation, either foreign or domestic, then upon the president, vice-president, secretary, or treasurer thereof. Notice served upon any of said agents shall be notice to the employer.

Examination by physician.

Section 314. At any time after an injury the employe, if so requested by his employer, must submit himself for examination, at some reasonable time and place, to a physician or physicians legally authorized to practice under the laws of such place, who shall be selected and paid by the employer. If the employe shall refuse upon the request of the employer, to submit to the examination by the physician or physicians selected by the employer, the board may, upon petition of the employer, order the employe to submit to an examination at a time and place set by it, and by the physician or physicians selected and paid by the employer, or by a physician or physicians designated by it and paid by the employer; and if the employe shall, without reasonable cause or excuse, disobey or disregard such order, he shall be deprived of his right to compensation under this article. The board may at any time after such first examination, upon petition of the employer, order the employe to submit himself to such further examinations as it shall deem reasonable and necessary, at such times and places and by such physicians as it may designate; and in such case, the employer shall pay the fees and expenses of the examining physician or physicians, and the reasonable traveling expenses and loss of wages incurred by the employe in order to submit himself to such examination. The refusal or neglect, without reasonable cause or excuse, of the employe to submit to such examination ordered by the board, either before or after an agreement or award, shall deprive him of the right to compensation, under this article, during the continuance of such refusal or neglect, and the period of such neglect or refusal shall be deducted from the period during which compensation would otherwise be payable.

The employe shall be entitled to have a physician or physicians of his own selection, to be paid by him, participate in any examination requested by his employer or ordered by the board.

Claim must be filed within one year.

Section 315. In cases of personal injury all claims for compensation shall be forever barred, unless, within one year after the accident, the parties shall have agreed upon the compensation payable under this article; or unless, within one year after the accident, one of the parties shall have filed a petition as provided in article four hereof. In cases of death all claims for compensation shall be forever barred, unless, within one year after the death, the parties shall have agreed upon the compensation under this article; or unless, within one year after the death, one of the parties shall have filed a petition as provided in article four hereof. Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the ex-

piration of one year from the time of the making of the most recent payment prior to date of filing such petition.

Commuted payments.

Section 316. The compensation contemplated by this article may at any time be commuted by the board, at its then value when discounted at five per centum interest, with annual rests, upon application of either party, with due notice to the other, if it appear that such commutation will be for the best interest of the employe or the dependents of the deceased employe, and that it will avoid undue expense or undue hardship to either party, or that such employe or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the whole or the greater part of his business or assets: Provided, however, That unless the employer agrees to make such commutation, the board shall require the employe or the dependents of the deceased employe to furnish proper indemnity safeguarding the employer's rights.

Payments of award to a trustee.

Section 317. At any time after the approval of an agreement or after the entry of the award, a sum equal to all future instalments of compensation may (where death or the nature of the injury renders the amount of future payments certain), with the approval of the board, be paid by the employer to any savings bank, trust company, or life insurance company, in good standing and authorized to do business in this Commonwealth, and such sum, together with all interest thereon, shall thereafter be held in trust for the employe or the dependents of the employe, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee noted upon the prothonotary's docket, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same periods as are herein required of the employer, until said fund and interest shall be exhausted. In the appointment of the trustee preference shall be given in the discretion of the board, to the choice of the employe or the dependents of the deceased employe. Should, however, there remain any unexpended balance of any fund after the payment of all sums due under this act, such balance shall be repaid to the employer who made the original payment, or to his legal representatives.

Payments from fund.

Legal obligation of employer.

Section 318. The right of compensation granted by this article of this act shall have the same preference (without limit of amount) against the assets of an employer, liable for such compensation, as is now or may hereafter be allowed by law for a claim for unpaid wages for labor: Provided, however, That no claim for

compensation shall have priority over any judgment, mortgage, or conveyance of land recorded prior to the filing of the petition, award, or agreement as to compensation in the office of the prothonotary of the county in which the land is situated. Claims for payments due under this article of this act shall not be assignable, and (except as provided in section five hundred and one of article five hereof) shall be exempt from all claims of creditors, and from levy, execution, or attachment, which exemption may not be waived.

Employer's right of subrogation.

Section 319. Where the compensable injury is caused in whole or in part by the act or omission of a third party, the employer shall be subrogated to the right of the employe, his personal representative, his estate or his dependents, against such third party for the balance of any sum recovered in litigation, or paid in compromise settlement, after subtraction of reasonable attorney's fees and other proper disbursements, but only to the extent of the compensation payable under this article by the employer. Any recovery against such third person in excess of the compensation theretofore paid by the employer shall be paid forthwith to the employe or to the dependents, and shall be treated as an advance payment by the employer on account of any future instalments of compensation.

Illegal employment.

Section 320 (a) If the employe at the time of the accident is a minor, under the age of eighteen years, employed or permitted to work in violation of any provision of the laws of this Commonwealth relating to minors of such age, compensation, either in the case of injury or death of such employe, shall be one hundred and ten per centum of the amount that would be payable to such minor if legally employed. The amount by which such compensation shall exceed that provided for in case of legal employment may be referred to as "additional compensation."

Additional compensation.

Liability of employer.

(b) The employer and not the insurance carrier shall be liable for the additional compensation. Any provision in an insurance policy undertaking to relieve an employer from such liability shall be void.

(c) Where death or the nature of the injury renders the amount of future payments certain, the total amount of the additional compensation, subject to discount as in the case of commutation, shall be immediately due and payable. It shall be deposited, subject to the approval of the board, in any savings bank, trust company, or life insurance company in good standing and authorized to do business in this Commonwealth.

Future payments uncertain.

Where the amount of the future payments of compensation is uncertain, the board shall, upon the approval of the agreement or the entry of an award,

determine as nearly as may be the total amount of payment to be made, and the additional compensation so calculated shall, immediately upon such determination, become due and payable by the employer. The amount may be redetermined by the board and any increase shall then become due and payable, and any excess, which shall be shown to have been paid, shall be returned to the person paying the same. Upon determination of the amount due, it shall be deposited as above provided. Payments of compensation out of deposits shall be made to the employe or dependents as payments of other compensation are made: Provided, however, That the board may, in its discretion and upon inquiry as in cases of commutation, accelerate such payments.

Amount may be redetermined.

Acceleration of payments.

(d) The provisions of the foregoing paragraph (c) shall not apply to employers who are exempted by the department from the necessity of carrying insurance.

Exemption.

(e) Possession of an employment certificate, duly issued and transmitted to the employer in accordance with the provisions of the child labor law and receipt thereof duly acknowledged by him, shall be conclusive evidence to such employer of his legal right to employ the minor for whose employment such certificate has been issued.

Employment certificate as evidence.

(f) The possession of an age certificate, duly issued and transmitted to the employer by the school authorities of the school district in which a minor resides, shall be conclusive evidence to the employer of the minor's age as certified therein.

Age certificate.

(g) If neither party has elected not to be bound by the provisions of article three of the act to which this act is an amendment, in the manner prescribed by section three hundred and two of said act, they shall be held to have agreed to be bound by the provisions of this act, and to have waived any other right or remedy at law or in equity, for the recovery of damages for injuries occurring under the circumstances herein described.

If parties have not made an election, they are bound by this act.

ARTICLE IV

Procedure

Section 401. The term "Referee," when used in this article, shall mean Workmen's Compensation Referee.

Referee.

The term "Fund," when used in this article shall mean the State Workmen's Insurance Fund of this Commonwealth.

Fund.

The term "Employer," when used in this article, shall mean the employer as defined in article one of this act, or his duly authorized agent, or his insurer if such insurer has assumed the employer's liability, or the fund if the employer be insured therein.

Employer.

Petitions.

Section 402. All proceedings before the board or any referee, and all appeals to the board, shall be instituted by petition addressed to the board. All petitions shall be in writing and in the form prescribed by the board.

To be filed in Bureau.

Section 403. All petitions, all copies of agreements for compensation, and all papers requiring action by the board, shall be mailed or delivered to the department at its principal office.

Section 404. The department shall, immediately upon their receipt, properly file and docket all petitions, agreements for compensation, findings of fact by the board or any referee, awards or disallowances of compensation, or modifications thereof, and all other reports or papers filed with it under the provisions of this act or the rules and regulations of the board.

Notice to parties in interest.

Section 405. Immediately upon receiving from the board or any referee any award or disallowance of compensation, or any modification thereof, or any other decision, the department shall serve a copy thereof on all parties in interest.

Method of serving notices.

Section 406. All notices and copies to which any party shall be entitled under the provisions of this article shall be served by mail, or in such manner as the board shall direct. For the purposes of this article any notice or copy shall be deemed served on the date when mailed, properly stamped and addressed, and shall be presumed to have reached the party to be served; but any party may show by competent evidence that any notice or copy was not received, or that there was an unusual or unreasonable delay in its transmission through the mails. In any such case proper allowance shall be made for the party's failure within the prescribed time to assert any right given him by this act.

Date of notice.

The department, the secretary, and every referee shall keep a careful record of the date of mailing every notice and copy required by this act to be served on the parties in interest.

Agreement for compensation payments.

Section 407. On or after the seventh day after any accident shall have occurred, the employer and employe or his dependents may agree upon the compensation payable to the employe or his dependents under this act; but any agreement made prior to the seventh day after the accident shall have occurred, or permitting a commutation of payments contrary to the provisions of this act, or varying the amount to be paid or the period during which compensation shall be payable as provided in this act, shall be wholly null and void. It shall be unlawful for any employer to accept a receipt showing the payment of compensation when in fact no such payment has been made.

Acceptance of receipt when no payment is made.

All agreements made in accordance with the provisions of this section shall be in writing, and signed by all parties in interest.

Agreements executed by minors valid and binding.

All agreements for compensation and all supplemental agreements for the modification, suspension, reinstatement, or termination thereof, and all receipts executed by any injured employe of whatever age, or by any dependent to whom compensation is payable under section three hundred and seven, and who has attained the age of sixteen years, shall be valid and binding unless modified or set aside as hereinafter provided.

Supplemental agreement.

Section 408. All agreements for compensation may be modified, suspended, reinstated, or terminated at any time by a supplemental agreement approved by the department, if the incapacity of an injured employe has increased, decreased, recurred, or temporarily or finally terminated, or if the status of any dependent has changed.

Agreements to be executed in triplicate.

Section 409. Whenever an agreement or supplemental agreement shall be executed between an employer and an employe or his dependents as provided by this act, such agreement shall be executed in triplicate. Two copies thereof, signed by all parties in interest, shall be mailed or delivered to the department within thirty days after execution. It shall be the duty of the department

Examination.

to examine the agreement to determine whether it conforms to the provisions of section four hundred and seven, to notify the parties thereto of its validity or invalidity, under the aforesaid section, within thirty days after the copies of the agreement have been mailed or delivered to it, and, if the agreement be approved, to

Copy of agreement to be sent to employe.

send to the employe, together with such notification of its approval, a copy of the agreement: Provided, however, That any payment made in accordance with any agreement prior to the receipt of notice of invalidity shall discharge pro tanto the liability, under article three of this act, of the employer making such payments.

Claim to be presented to board upon failure to agree.

Section 410. If, after any accident, the employer and the employe or his dependent, concerned in any accident shall fail to agree upon the facts thereof and the compensation due under this act, the employe or his dependents may present a claim for compensation to the board.

Interest.

Whenever any claim for compensation is presented to the board, and is finally adjudicated in favor of the claimant, the amounts of compensation actually due at the time the first payment is made after such adjudication shall bear interest at the rate of six per centum per annum from the day such claim is presented, and such interest shall be payable to the same persons as the compensation is payable.

Payment in case claimant dies before final adjudication.

In case any claimant shall die before the final adjudication of his claim, the amount of compensation due such claimant to the date of death shall be paid to the dependents entitled to compensation, or, if there be no dependents, then to the estate of the decedent.

Petitions on agreed facts.

Section 411. Whenever the employer and the employe or his dependent shall, on or after the seventh day after any accident, agree on the facts on which a claim for compensation depends, but shall fail to agree on the compensation payable thereunder, they may petition the board to determine the compensation payable. Such petition shall contain the agreed facts, and shall be signed by all parties in interest. The board shall fix a time and place for hearing the petition, and shall notify all parties in interest. As soon as may be after such hearing, the board shall award or disallow compensation in accordance with the provisions of this act.

Petition for commutation.

Section 412. If any party shall desire the commutation of future instalments of compensation, he shall present a petition therefor to the board.

Review and modification of agreements.

Section 413. The board, or a referee designated by the board, may, at any time, review and modify or set aside an original or supplemental agreement, upon petition filed by either party with the board or in the course of the proceedings under any petition pending before such board or referee, if it be proved that such agreement was procured by the fraud, coercion, or other improper conduct of a party, or was founded upon a mistake of law or of fact: Provided, That, except in the case of eye injuries, an agreement can only be reviewed, modified, or set aside if a petition is filed with the board within one year after the date of the most recent payment of compensation made prior to the filing of such petition.

The board, or referee designated by the board, may, at any time, modify, reinstate, suspend, or terminate an original or supplemental agreement or an award, upon petition filed by either party with such board, upon proof that the disability of an injured employe has increased, decreased, recurred, or has temporarily or finally ceased, or that the status of any dependent has changed. Such modification, reinstatement, suspension, or termination shall be made as of the date upon which it is shown that the disability of the injured employe has increased, decreased, recurred, or has temporarily or finally ceased, or upon which it is shown that the status of any dependent has changed: Provided, That, except in the case of eye injuries, an agreement or an award can only be reviewed, modified, or reinstated during the time such agreement or award has to run, if for a definite period; and, except in the case of eye injuries,

no agreement or award shall be reviewed, or modified, or reinstated, unless a petition is filed with the board within one year after the date of the most recent payment of compensation made prior to the filing of such petition.

Powers of Board.

The board or referee to whom any such petition has been assigned may subpoena witnesses, hear evidence, make findings of fact, and award or disallow compensation, in the same manner and with the same effect and subject to the same right of appeal, as if such petition were an original claim petition.

When petition a supersedeas.

The filing of a petition to terminate or modify a compensation agreement or award as provided in this section shall operate as a supersedeas, and shall suspend the payment of compensation fixed in the agreement or by the award, in whole or to such extent as the facts alleged in the petition would, if proved, require.

Assignment of agreements.

Section 414. Whenever a claim petition or other petition is presented to the board, the board shall, by general rules or special order, either direct it to be heard by one or more members of the board or assign it to a referee for hearing: Provided, however, That petitions presented under sections four hundred and eleven and four hundred and twelve shall be heard by one or more members of the board.

Notices to be served on adverse parties.

The department shall serve upon each adverse party a copy of the petition, together with a notice that such petition will be heard by the board or the referee to whom it has been assigned (giving his name and address) as the case may be, and, if the petition shall have been assigned to a referee, shall mail the original petition to such referee, together with copies of the notices served upon the adverse parties.

Reassignment of petitions.

Section 415. At any time before an award or disallowance of compensation or order has been made by a referee to whom a petition has been assigned, the board may order such petition heard before it or one or more of its members or may reassign it to any other referee. Unless the board shall otherwise order, the testimony taken before the original referee shall be considered as though taken before the board or substituted referee.

Filing answers to petitions.

Section 416. Within ten days after a copy of any petition has been served upon any adverse party, he may file with the secretary of the board if the petition has been directed to be heard by the board, or with the referee if the petition has been assigned to a referee, an answer in the form prescribed by the board.

Proof of fact.

Every fact alleged in a petition not specifically denied by an answer so filed by an adverse party shall be deemed to be admitted by him. But the failure of any

adverse party or of all of them to deny a fact so alleged shall not preclude the board or referee before whom the petition is heard from requiring, of its or his own motion, proof of such fact.

Hearing on petition.

Section 417. As soon as may be after the twelfth day after notice that a petition has been directed to be heard by the board has been served upon the adverse parties thereof, the board shall fix a time and place for hearing the petition. If a petition be assigned to a referee, he shall, twelve days after notice that such petition has been assigned to him, has been served upon the adverse parties, fix a time and a place for hearing the petition. Such hearing shall not be less than seven nor more than fourteen days after the mailing of notice thereof by the referee. The secretary of the board, if the petition has been directed to be heard by the board or by one or more of its members, or the referee to whom the petition has been assigned, shall serve upon all parties in interest a notice of the time and place of hearing, and shall serve upon the petitioner a copy of any answer of any adverse party.

Secretary to serve notice.

Disposition of petition heard by board or referees.

Section 418. The board if a petition is directed to be heard by it or by one or more of its members, or the referee to whom a petition is assigned for hearing, may subpoena witnesses, order the production of books and other writings, and hear evidence and shall make, in writing and as soon as may be after the conclusion of the hearing, such findings of fact, conclusions of law, and award or disallowance of compensation or other order, as the petition and answers and the evidence produced before it or him and the provision of this act shall, in its or his judgment, require. The findings of fact made by the board in any petition heard by it or by one or more of its members or upon a hearing de novo shall be final, except as hereinafter provided, and the findings of fact made by a referee to whom a petition has been assigned or any question of fact has been referred under the provisions of section four hundred and nineteen shall be final, unless an appeal is taken as provided in this act, or unless the board shall, under the provisions of section four hundred and twenty-five of this article, grant a hearing de novo or a rehearing.

Question of fact —testimony may be taken by referees.

Section 419. The board may refer any question of fact arising under any petition, including a petition for commutation heard by it, to a referee to hear evidence and report to the board the testimony taken before him or such testimony and findings of fact thereon as the board may order. The board may refer any question of fact arising out of any petition assigned to a referee, to any other referee to hear evidence, and report the testimony so taken thereon to the original referee.

May make investigations or appoint physicians.

Section 420. The board or a referee, if it or he deem it necessary, may, of its or his own motion, either before, during, or after any hearing, make an investigation of the facts set forth in the petition or answer. The board or referee, with the consent of the board, may appoint one or more impartial physicians or surgeons to examine the injuries of the plaintiff and report thereon, or he may employ the services of such other experts as shall appear necessary to ascertain the facts. The report of any physician, surgeon, or expert appointed by the board or by a referee shall be filed with the board or referee, as the case may be, and shall be a part of the record and open to inspection as such.

Compensation for physicians.

The board shall fix the compensation of such physicians, surgeons, and experts, which, when so fixed, shall be paid out of the sum appropriated to the Department of Labor and Industry for the maintenance of the department, and shall be taxed as part of the costs of the proceedings, to be repaid to such department by either party, or both, as the board may direct. If any sum so taxed shall not be paid by the party directed to repay, the same may be collected as costs are now collectible.

Hearings public.

Section 421. All hearings before the board, or one or more members thereof, or before a referee shall be public.

Section 422. Neither the board nor any of its members nor any referee shall be bound by the technical rules of evidence in conducting any hearing or investigation, but all findings of fact shall be based only upon sufficient, competent evidence to justify same.

Testimony or deposition may be taken within or outside the Commonwealth.

If any party or witness resides outside of the Commonwealth, or through illness or other cause is unable to testify before the board or a referee, his or her testimony or deposition may be taken, within or without this Commonwealth, in such manner and in such form as the board may, by special order or general rule, prescribe. The records kept by a hospital of the medical or surgical treatment given to an employe in such hospital shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

Appeal to board from referee's decision.

Section 423. Any party in interest may, within twenty days after notice of a referee's award or disallowance of compensation shall have been served upon him, take an appeal to the board on the ground: (1) that the award or disallowance of compensation is not in conformity with the terms of this act, or that the referee committed any other error of law; (2) that the findings of fact and award or disallowance of compensation was unwarranted by sufficient, competent evidence, or was

procured by fraud, coercion, or other improper conduct of any party in interest. The board may, upon cause shown, extend the time provided in this article for taking such appeal or for the filing of an answer or other pleading.

Board may disregard finding of fact by referee.

In any such appeal the board may disregard the findings of fact of the referee, and may examine the testimony taken before such referee, and if it deem proper may hear other evidence, and may substitute for the findings of the referee such findings of fact as the evidence taken before the referee and the board, as hereinbefore provided, may, in the judgment of the board, require, and may make such disallowance or award of compensation or other order as the facts so founded by it may require.

Error of law.

Section 424. Whenever an appeal shall be based upon an alleged error of law, it shall be the duty of the board to grant a hearing thereon. The board shall fix a time and place for such hearing, and shall serve notice thereof on all parties in interest.

Board may sustain or reverse.

As soon as may be after such hearing, the board shall either sustain or reverse the referee's award or disallowance of compensation, or make such modification thereof as it shall deem proper.

Board may grant a rehearing de novo.

Section 425. Whenever an appeal shall be taken on the ground that the referee's award or disallowance of compensation was unwarranted by the evidence, or because of fraud, coercion, or other improper conduct by any party in interest, the board may, in its discretion, grant a hearing de novo before the board, or one or more of its members or assign the petition for rehearing to any referee designated by it or sustain the referee's award or disallowance of compensation. If the board shall grant a hearing de novo, it shall fix a time and place for same, and shall notify all parties in interest.

As soon as may be after any hearing de novo by the board, it shall in writing state its findings of fact, and award or disallow compensation in accordance with the provisions of this act.

Rehearing.

Section 426. The board, upon petition of any party and upon cause shown, at any time before the court of common pleas of any county of this Commonwealth to which an appeal has been taken under the provisions of section four hundred and twenty-seven of this article shall have taken final action thereon, may grant a rehearing of any petition upon which the board has made an award or disallowance of compensation or other order or ruling, or upon which the board has sustained or reversed any action of a referee; but such rehearing

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"Sec. 426-427
For Amendment of May 27, 1943 Pamphlet Law 691
Re: Allegheny County—See Act No. 302, pages 35-36"

shall not be granted more than one year after the board has made such award, disallowance, or other order or ruling, or has sustained or reversed any action of the referee. If the board shall grant a rehearing of any petition from the board's action on which an appeal has been taken to and is pending in, the court of common pleas of any county of this Commonwealth under the provisions of section four hundred and twenty-seven of this article, the board shall file in such court a certified copy of its order granting such rehearing, and it shall thereupon be the duty of such court to cause the record of the case to be remitted to the board: Provided, however, That nothing contained in this section shall limit or restrict the right of the board, or a referee designated by the board, to review, modify, set aside, reinstate, suspend, or terminate, an original or supplemental agreement, or an award in accordance with the provisions of section four hundred thirteen of this article. Limitation.

Section 427. Any party may appeal from any action of the board on matters of the law to the court of common pleas of the county in which the accident occurred or of the county in which the adverse party resides or has a permanent place of business, or, by agreement of the parties, to the court of common pleas of any other county of this Commonwealth. Such appeal must be brought within twenty days after notice of the action of the board has been served upon such party, unless any court of common pleas to which an appeal lies shall, upon cause shown, extend the time herein provided for taking the appeal. The party taking the appeal shall, at the time of taking the appeal, serve upon the adverse party a written notice thereof, setting forth the date of the appeal and the court in which the same is filed, and shall file, either with his notice of appeal, or within thirty days thereafter, such exceptions to the action of the board as he may desire to take, and shall specify the findings of fact, if any, of the board or of the referee sustained by the board, which he alleges to be unsupported by competent evidence. Appeals from board. Time extended. Filing exceptions.

Upon filing of the notice of an appeal, the prothonotary of the court of common pleas to which the appeal has been taken shall issue a writ of certiorari directed to the board, commanding it, within ten days after service thereof, to certify to such court its entire record in the matter in which the appeal has been taken. The writ so issued shall be mailed by the prothonotary to the department at Harrisburg, together with a copy of the exceptions. The board shall, within ten days after such service, certify to such court its entire record in the matter in which the appeal has been taken, including the notes of testimony.

Any court before whom an appeal is pending from any action of the board may remit the record to the board for more specific findings of fact, if the findings of the board or referee are not, in its opinion, sufficient to enable it to decide the question of law raised by the appeal.

If the court of common pleas of any county of this Commonwealth shall affirm an award or order of the board or of a referee sustained by the board, fixing the compensation payable under this act, the court shall enter judgment for the total amount stated by the award or order to be payable, whether then due and accrued or payable in future instalments. If such court shall sustain the appellant's exceptions to a finding or findings of fact and reverse the action of the board founded thereon, the court shall remit the record to the board for further hearing and determination, in which the procedure shall be the same as that hereinbefore provided in this article in the case of a petition presented to the board, except that the testimony taken in the original proceedings shall be considered as though taken in such further hearing.

Notice to attorney-at-law or parties not represented by counsel.

The prothonotary of any court of common pleas to which an appeal has been taken from the board shall send to the board a certificate of the judgment of the court as soon as rendered, with a copy of any opinion which may be filed in the case, and, within five days, shall give notice of such judgment, and the date thereof, by registered mail to each attorney-at-law appearing in the case at the address given by the attorney in the pleadings, and, if no attorney-at-law has appeared, by registered mail to the party or parties not represented by counsel. At the end of the period hereinafter allowed for an appeal from the judgment of the court, the record of the board shall be remitted to it by the prothonotary unless an appeal shall have been taken to the Superior Court as hereinafter provided. If such appeal shall be taken, the record shall be remitted to the board by the prothonotary on its return from the appellate court.

Appeal to Superior Court.

Any party may appeal to the Superior Court from the judgment of the court of common pleas within thirty days after entry of said judgment, irrespective of the amount involved. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Superior Court, and the record so certified shall contain all that was before the court of common pleas. Any appeal from the action of the board to a court of common pleas, and from it to the Superior Court shall take precedence over all other civil actions. The judgment of the Superior Court shall be final, unless an appeal

therefrom is allowed as in the case of other judgments of that tribunal. Finality of judgment.

Section 428. Whenever the employer, who has accepted and complied with the provisions of section three hundred five, shall be in default in compensation payments for thirty days or more, the employe or dependents entitled to compensation thereunder may file a certified copy of the agreement and the order of the board approving the same or of the award or order with the prothonotary of the court of common pleas of any county, and the prothonotary shall enter the entire balance payable under the agreement, award or order to be payable to the employe or his dependents, as a judgment against the employer or other party liable under such agreement or award. Such judgment shall be a lien against property of the employer or other party liable under such agreement or award and execution may issue thereon forthwith. Recording of agreement, award, etc. As a judgment. Acts as a lien, etc.

Wherever, after an accident, any employe or his dependents shall have entered into a compensation agreement with an employer, who has not accepted or complied with the provisions of section three hundred five, or shall file a claim petition with the board against such employer, he may file a certified copy thereof with the prothonotary of the court of common pleas of any county. The prothonotary shall enter the amount stipulated in any such agreement or claimed in any such petition as judgment against the employer. If the agreement be approved by the department, or compensation awarded as claimed in the petition, the amount of compensation stipulated in the * agreement or claimed in the petition shall be a lien, as of the date when the agreement or petition was filed with the prothonotary. Pending the approval of the agreement or the award of compensation, no other lien which may be attached to the employer's property during such time shall gain priority over the lien of such agreement or award; but no execution shall issue on any compensation judgment before the approval of the agreement or the award of compensation on the said petition. Judgment against employer.

If the agreement be disapproved, or, after hearing, compensation shall be disallowed, the employer may file, with the prothonotary of any county in which the petition or agreement is on record as a judgment, a certified copy of the disapproval of the agreement or disallow- Disallowance of compensation; judgment stricken off.

* "he" in original.

ance of compensation, and it shall be the duty of such prothonotary to strike off the judgment.

Award modified; record modified.

If the amount of compensation claimed be disallowed but another amount awarded, the compensation judgment shall be a lien to the extent of the award, as of the date of filing the petition with the prothonotary, with the same effect as to other liens and the same disability to issue execution thereon as if the compensation claimed had been allowed. In such cases the prothonotary shall make such modification of the record as shall be appropriate.

Supplemental agreement, award or order; record modified, etc.

If the compensation payable under any agreement or award upon which judgment has been entered under the provisions of this section shall be modified, suspended, reinstated, or terminated by a supplemental agreement executed under the provisions of section four hundred and eight, or by an award or order made under the provisions of section four hundred and thirteen, any party to such judgment, at any time after such agreement has been approved by the department or after the expiration of the time allowed for an appeal from the award or order, may file with the prothonotary of the court of common pleas of any county in which the judgment is on record a certified copy of such supplemental agreement, award, or order and it shall thereupon be the duty of the prothonotary to modify, suspend, reinstate, or satisfy such judgment in accordance with the terms of such supplemental agreement, award, or order.

Default.

Execution may issue by first filing with the prothonotary an affidavit that there has been a default in payments of compensation due on any judgment for compensation, entered prior to the approval of the compensation agreement, or an award on petition, as soon as such agreement shall have been approved by the department or such award made as evidenced by the approval of the board of the award or by a certified copy thereof.

Execution.

Execution shall in all cases be for the amount of compensation and interest thereon due and payable up to the date of the issuance of said execution, with costs, and further execution may issue from time to time as further compensation shall become due and payable until full amount of the judgment with costs shall have actually been paid.

Section 429. If any party against whom a compensation agreement, award, or other order fixing the compensation payable under this act has been filed of record in any county of this Commonwealth in accordance with the provisions of section four hundred and twenty-eight of this article, or against whom judgment has been entered by the prothonotary of the court of common pleas of any county on any award or order of the board or

a referee, shall, at any time, present to the board receipts or copies thereof, certified by any referee, showing the payment of compensation as required by the agreement or award in full to the date of presentation to the referee, the board shall issue a certificate to such party, in the form prescribed, stating the extent to which the judgment on the agreement or award has been reduced. Upon the presentation of such certificate to the prothonotary of the court of common pleas of any county in which such agreement or award has been filed of record as a judgment, or in which judgment on an award has been entered by the prothonotary of the court of common pleas, it shall be the prothonotary's duty to mark such judgment satisfied to the extent of the payments so certified, and, upon the presentation to such prothonotary of a certificate issued by the board under the provisions of section three hundred and seventeen of this act it shall be the duty of the prothonotary to mark such judgment fully satisfied.

Prothonotary's duty.

Section 430. The lien of any judgment entered upon any award shall not be divested by any appeal. If, however, the party appealing from the award shall file with the board a bond, in such amount and in such form as the rules and regulations of the board shall direct, the appeal shall, pending its decision, excuse the payment of so much of the compensation as is contested therein; but if the final decision on appeal shall sustain the award, it shall be the duty of the employer by whom such award is payable to make payments of compensation as from the date of the original award. If on appeal the award is sustained as to a part, it shall be the duty of the employer by whom such part is payable to make payments as from the date of the original award. In case the award is annulled on appeal, it shall be the duty of the prothonotary of any county in which such award has been entered as a judgment to mark it satisfied.

Filing bond.

Section 431. The cost of the prothonotary for entering the amount of compensation as provided in this act, or making a modification of the record, or marking the judgment satisfied, shall be allowed, taxed, and collected as upon a confession of judgment on a judgment note.

Prothonotary's costs.

Section 432. It shall be the duty of the prothonotary of each court of common pleas, and of the Supreme and Superior Court of the Commonwealth, to make a monthly report to the board of the disposition of all appeals taken to such court under the provisions of this article.

Section 433. A document on file in the department or with the board or any referee, or part of the record of any proceedings taken under Articles III and IV of this act, shall be proved by a copy thereof, certified by

the department under the seal of the department, or certified by the chairman of the board and attested by the secretary of the board under seal of the board, as the case may be.

Final receipt may be set aside.

Section 434. A final receipt, given by an employe or dependent entitled to compensation under a compensation agreement or award, shall be prima facie evidence of the termination of the employer's liability to pay compensation under such agreement or award: Provided, however, That the board, or a referee designated by the board, may, at any time within two years from the date to which payment is made as evidenced by such final receipt, set aside a final receipt, upon petition filed with the board, if it be conclusively proved that such receipt was procured by fraud, coercion, or other improper conduct of a party, or is founded upon mistake of law or of fact.

ARTICLE V

General Provisions

Section 501. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of article two of this act shall be an enforceable lien against the amount to be paid as damages, or be valid or binding in any respect, unless the same be approved in writing by the judge presiding at the trial, or, in case of settlement without trial, by a judge of the common pleas court of the county in which the accident occurred.

Claim or agreement for legal services to be passed upon by board.

No claim or agreement for legal services or disbursements in support of any claim for compensation, or in preparing any agreement for compensation, under article three of this act, shall be an enforceable lien against the amount to be paid as compensation, or be valid or binding in any other respect, unless the same be approved by the board. Any such claim or agreement shall be filed with the department, which shall, as soon as may be, notify the person by whom the same was filed of the board's approval or disapproval thereof, as the case may be.

After the approval as herein required, if the employer be notified in writing of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation: Provided, however, That where the employe's compensation is payable by the employer in periodical instalments, the board shall fix, at the time of approval the proportion of each instalment to be paid on account of legal services and disbursements.

Constitutionality.

Section 502. If any provision of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other section or provision of this act, except that articles two and three are hereby declared to be inseparable and as one legislative thought, and if either article be declared by such court void or inoperative in an essential part, so that the whole of such article must fall, the other article shall fall with it and not stand alone.

Section 503. Nothing in this act shall affect or impair any right of action which shall have accrued before this act shall take effect, except that, because litigation is now pending as to the constitutionality of the compensation schedules contained in the amendment of this act, approved the fourth day of June, one thousand nine hundred and thirty-seven (Pamphlet Laws, one thousand five hundred fifty-two), the department is hereby authorized to approve agreements or supplemental agreements, and the board and referees are hereby authorized to make awards effectuating agreements, compromising disputes between employers and employes or their dependents, as to the amount of compensation payable in cases arising out of accidents occurring between January first, one thousand nine hundred and thirty-eight and the effective date of this reenactment of this act, if such agreements or supplemental agreements provide for, or the parties to cases pending before the board or referees have agreed to, the payment of compensation at the rates and for the periods specified in this reenactment of this act.

Repeal.

Section 504. The following acts are hereby specifically repealed:

The act approved the third day of June, one thousand nine hundred fifteen (Pamphlet Laws, seven hundred seventy-seven), entitled "A supplement to an act, entitled 'The Workmen's Compensation Act of one thousand nine hundred and fifteen,' to exempt domestic servants and agricultural workers from the provisions thereof," and its amendments.

The act approved the fourteenth day of May, one thousand nine hundred twenty-five (Pamphlet Laws, seven hundred fourteen), entitled "A supplement to an act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six) entitled 'An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; and providing procedure for the determination of liability and compensation thereunder,' providing for the payment of compensation to volunteer firemen or their dependents."

All other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

When effective.

Section 2. The provisions of this act shall become effective ten days after its final enactment.

APPROVED—The 21st day of June, A. D. 1939.

ARTHUR H. JAMES

The foregoing is a true and correct copy of Act of the General Assembly No. 281.

SOPHIA M. R. O'HARA
Secretary of the Commonwealth.

No. 282

A SUPPLEMENT

To the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," as reenacted and amended, to exempt domestic servants and agricultural workers from the provisions thereof, except in certain cases.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Act of June 2, 1915 (P. L. 736), does not apply to any person injured while engaged in domestic service or agriculture.

Section 1. Nothing contained in any article or any section of the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," as last reenacted and amended at the regular legislative session of one thousand nine hundred and thirty-nine, shall apply to or in any way affect any person who at the time of injury is engaged in domestic service or agriculture: Provided, however, That in cases where the employer of any such person shall have, prior to such injury, by application to the Workmen's Compensation Board, approved by the board, elected to come within the provisions of the Workmen's Compensation Act of one thousand nine hundred and fifteen, and the supplements and amendments thereto, the provisions of this supplementary act shall not apply.

But if employer of such persons, prior to injury of worker, elects to come within provisions of act, this act shall not apply.

When effective.

Section 2. The provisions of this act shall become effective ten days after its final enactment.

APPROVED—The 21st day of June, A. D. 1939.

ARTHUR H. JAMES

The foregoing is a true and correct copy of Act of the General Assembly No. 282.

SOPHIA M. R. O'HARA
Secretary of the Commonwealth.

No. 101

AN ACT

To amend the act, approved the twenty-first day of June, one thousand nine hundred and thirty-nine (Pamphlet Laws, five hundred sixty-six), entitled, "A supplement to the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended 'An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties,' as reenacted and amended, providing for the payment of compensation to volunteer firemen or their dependents", amplifying the provisions thereof as to persons entitled to such payments.

Workmen's compensation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Act of June 21, 1939, P. L. 566, amended.

Section 1. The act, approved the twenty-first day of June, one thousand nine hundred and thirty-nine (Pamphlet Laws, five hundred sixty-six), entitled, "A supplement to the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended 'An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties,' as reenacted and amended, providing for the payment of compensation to volunteer firemen or their dependents", is hereby amended to read as follows:

Section 1. In addition to those persons included within the definition of the word "employe" as defined in section one hundred and four of the act, approved the second day of June, one thousand nine hundred and fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties", as last reenacted and amended at the regular legislative session of one thousand nine hundred and thirty-nine,

Members of volunteer fire departments given compensation benefits.

there shall be included all members of volunteer fire companies or volunteer fire departments of the various cities, boroughs, incorporated towns, and townships, who shall be and are hereby declared to be "employes" of such cities, boroughs, incorporated towns, townships, for all the purposes of said act, and shall be entitled to receive compensation in case of injuries received while

actually engaged as firemen or while going to or returning from any fire which the fire companies or fire department of which they are members shall have attended or while performing any other duties of such companies or fire department authorized by such cities, boroughs, incorporated towns and townships.

Benefits extended for injuries sustained in performance of any duty.

Section 2. This act shall become effective ten days after final enactment.

Act effective ten days after approval.

APPROVED—The 2nd day of July, A. D. 1941.

ARTHUR H. JAMES

The foregoing is a true and correct copy of Act of the General Assembly No. 101.

SOPHIA M. R. O'HARA
Secretary of the Commonwealth.

ACCIDENT REPORTING ACT

ACT 19 OF MARCH 10, 1937

PAMPHLET LAW 56

No. 19

AN ACT

To amend the act, approved the nineteenth day of July, one thousand nine hundred thirteen (Pamphlet Laws, eight hundred forty-three), entitled "An act requiring employers to make report to the Department of Labor and Industry of accidents to employees, and prescribing a penalty for non-compliance therewith," by further defining the duty of employers to make reports of injuries received by their employees; requiring employers to make reports of deaths resulting from injuries received by employees, and prescribing a penalty for failure to do so, and clarifying the provisions of the act pertaining to the evidential value of such reports.

Sections 1, 2, 3, 4, and 5, act of July 19, 1913 (P. L. 843), amended.

Section 1. Be it enacted, &c., That sections one, two, three, four, and five of the act, approved the nineteenth day of July, one thousand nine hundred thirteen (Pamphlet Laws, eight hundred forty-three), entitled "An act requiring employers to make report to the Department of Labor and Industry of accidents to employees, and prescribing a penalty for non-compliance therewith," are hereby amended to read as follows:

Labor.

Injuries to and deaths of employees.

Reports of employers.

Contents.

Section 1. Be it enacted, &c., That within fifteen days after the date of any injury received by an employee in the course of or resulting from his employment, and within forty-eight hours of the death of an employee occurring from an injury received in the course of or resulting from his employment, the employer, whether a person, firm, or corporation, or the Commonwealth, or any political subdivision thereof, shall make report of such injury or death directly to the Department of Labor and Industry. Such report shall be made in such form as the Department of Labor and Industry shall prescribe, and shall set forth the name, address, and nature of the business of the employer; name, address, sex, age, nationality, wage or salary, and occupation of the employee; date, day of week, hour, place, cause, and character of the injury or death, and in the case of an injury, the nature of the injury, and the duration of the disability, or probable disability, as far as the same can be ascertained. Such employer shall, also, upon request of the Department of Labor and Industry, make such further report as may reasonably be required by it.

Failure of employer to report.

Section 2. Any person, firm, or corporation having knowledge of the occurrence of such personal injury or death to an employee, in the course of or resulting from his employment, who shall fail to make report as aforesaid, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than one

Penalty.

hundred dollars ($100.00), or undergo imprisonment for not more than thirty (30) days, or both, at the discretion of the court.

Reports shall not be evidence.

Section 3. Reports made in accordance with this act shall not be evidence against the employer in any proceeding, either under the Workmen's Compensation Law of one thousand nine hundred and fifteen or otherwise.

Other reports not required.

Section 4. No employer who has made the report required by this act shall be required to make any other or further report of such injury or death to any other department of the government of the Commonwealth.

Application of act.

Section 5. This act shall not apply to casual employments; nor to injuries resulting in disability continuing less than the day shift or turn in which the injury was received.

When effective.

Section 2. This act shall become effective thirty days after the date of its enactment.

APPROVED—The 10th day of March, A. D. 1937.

GEORGE H. EARLE

The foregoing is a true and correct copy of Act of the General Assembly No. 19.

DAVID L. LAWRENCE
Secretary of the Commonwealth.

PENNSYLVANIA OCCUPATIONAL DISEASE ACT

EFFECTIVE JULY 1, 1945

ACT OF JUNE 21, 1939

PAMPHLET LAW 566

AS AMENDED

No. 284

AN ACT

Defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I

Interpretation and Definitions

"The Pennsylvania Occupational Disease Act."

Section 101. This act shall be called and may be cited as The Pennsylvania Occupational Disease Act. It shall apply to disabilities and deaths caused by occupational disease as defined in this act, resulting from employment within this Commonwealth, irrespective of the place where the contract of hiring was made, renewed, or extended, and shall not apply to any such disabilities and deaths resulting from employment outside of the Commonwealth.

General application.

Singular, plural.

Section 102. Wherever in this act the singular is used, the plural shall be included; and where the masculine gender is used, the feminine and neuter shall be included.

Employer.

Section 103. The term "employer," as used in this act, is declared to be synonymous with master, and to include natural persons, partnerships, joint-stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth, and all governmental agencies created by it.

Employe.

Section 104. The term "employe," as used in this act, is declared to be synonymous with servant, and includes all natural persons who perform services, except agricultural * services or domestic services performed in a private home, for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer and exclusive of persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in the worker's own home,

* "agriculture" in the original.

or on other premises not under the control or management of the employer.

Independent contractors.

Section 105. The term "contractor," as used in article two, section two hundred and three, and article three, section three hundred and two (b), shall not include a contractor engaged in an independent business, other than that of supplying laborers or assistants, in which he serves persons other than the employer in whose service the disability occurs, but shall include a subcontractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

Public authorities treated as business.

Section 106. The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

Department.

Section 107. The term "department," when used in this act, shall mean the Department of Labor and Industry of this Commonwealth.

Board.

The term "board," when used in this act, shall mean The Workmen's Compensation Board of this Commonwealth.

The term "referee," when used in this act, shall mean Workmen's Compensation Referee.

Occupational diseases.

Section 108. The term "occupational disease," as used in this act, shall mean only the following diseases:

(a) Poisoning by arsenic, lead, mercury, or manganese, their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(b) Poisoning by phosphorus, its preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(c) Poisoning by methanol, carbon bisulphide, hydro carbon distillates (naphthas and others), or halogenated hydro carbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(d) Poisoning by benzol, or by nitro, amido, or amino derivatives of benzol (dinitro-benzol, anilin, and others), or their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(e) Caisson disease (compressed air illness) resulting from engaging in any occupation carried on in compressed air.

(f) Radium poisoning or disability, due to radioactive properties of substances or to Roentgen-ray (X-rays) in any occupation involving direct contact with, handling thereof, or exposure thereto.

(g) Poisoning by, or ulceration from, chromic acid, or bichromate of ammonium, bichromate of potassium, or bichromate of sodium, or their preparations, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(h) Epitheliomatous cancer or ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of any of those substances, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(i) Infection or inflammation of the skin due to oils, cutting compounds, lubricants, dust, liquids, fumes, gases, or vapor, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(j) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, or skins, or bodies of animals either alive or dead.

(k) Silicosis or anthraco-silicosis (commonly known as Miner's Asthma and hereinafter referred to as anthraco-silicosis) in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO_2).

(l) Asbestosis in any occupation involving direct contact with, handling of, or exposure to the dust of asbestos.

ARTICLE II

Damages by Action at Law

Negligence of fellow employe, no defense.

Section 201. In any action brought to recover damages for disability or death of an employe caused by occupational disease arising out of and in the course of his employment, it shall not be a defense that the occupational disease was caused in whole or in part by the negligence of a fellow employe.

Negligence of an employe not a barrier.

Section 202. The employer shall be liable for the negligence of employes other than the plaintiff, while acting within the scope of their employment, including engineers, chauffeurs, miners, mine-foremen, fire-bosses, mine superintendents, plumbers, officers of vessels, and all other employes licensed by the Commonwealth or other governmental authority, if the employer be allowed by law the right of free selection of such employes from the class of persons thus licensed; and such employes shall be the agents and representatives of their employers, and their employers shall be responsible for the acts and neglects of such employes, as in the case of other agents and employes of their employers; and, notwithstanding the employment of such employes, the property in and about which they are employed, and the use and operation thereof, shall at all times be under the supervision, management and control of their employers.

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Hiring by employe, assistant, or contractor, no barrier.

Section 203. An employer who permits the entry upon premises occupied by him or under his control of a laborer or an assistant hired by an employe or contractor who has rejected article three of this act, for the performance upon such premises of a part of the employer's regular business entrusted to such employe or contractor, shall be liable to such laborer or assistant in the same manner and to the same extent as to his own employe.

Agreements outside act, not valid.

Section 204. No agreement, composition, or release of damages made before the date of any disability or death resulting from occupational disease, except the agreement defined in article three of this act, shall be valid or shall bar a claim for damages for such disability or death; and any such agreement other than that defined in article three herein, is declared to be against the public policy of this Commonwealth. The receipt of benefits from any association, society, or fund shall not bar the recovery of damages by action at law, nor the recovery of compensation under article three hereof; and any release executed in consideration of such benefits shall be void.

Benefits received from other sources, no bar.

ARTICLE III

Elective Compensation

Agreement.

Section 301. (a) When employer and employe shall by agreement, either express or implied, as hereinafter provided, accept the provisions of article three of this act, compensation for disability or death of such employe, caused by occupational disease arising out of and in the course of his employment, shall be paid by the employer, without regard to negligence, according to the schedule contained in sections three hundred and six and three hundred and seven of this article, but—

Negligence no bar.

Disability or death caused by employe's violation of law.

Burden of proof.

1. No compensation shall be paid when the disability or death is caused by the employe's violation of law, but the burden of proof of such fact shall be upon the employer.

Maximum compensation.

2. The maximum compensation payable under this article for disability and death resulting from silicosis, anthraco-silicosis, or asbestosis shall not exceed the sum of four thousand dollars ($4000), which shall be full and complete payment for all disability, present or future, or for death from such occupational diseases arising out of employment by any and all employers in this Commonwealth.

Minor employed.

(b) The right to receive compensation under this act shall not be affected by the fact that a minor is employed or is permitted to be employed in violation of the laws of this Commonwealth relating to the employment of minors, or that he obtained his employment by misrepresenting his age.

(c) Compensation for the occupational diseases enumerated in this act shall be paid only when such occupational disease is peculiar to the occupation or industry in which the employe was engaged, and not common to the general population, and occurring within one year after the date of his last employment in such occupation or industry. Wherever death is mentioned as a cause for compensation under this act, it shall mean only death resulting from occupational disease and occurring within three years after the date of his last employment in such occupation or industry.

Disease peculiar to the occupation or industry.

(d) Compensation for silicosis or anthraco-silicosis, and asbestosis, shall be paid only when it is shown that the employe has had an aggregate employment of at least four years in the Commonwealth of Pennsylvania, during a period of eight years next preceding the date of disability, in an occupation having a silica or asbestos hazard.

In cases of silicosis or anthraco-silicosis, length of employment.

(e) Compensation shall not be payable for partial disability due to silicosis, anthraco-silicosis, or asbestosis. Compensation shall be payable, as otherwise provided in this act, for total disability or death caused solely (as definitely distinguished from a contributory or accelerating cause) by silicosis, anthraco-silicosis, or asbestosis, or by silicosis, anthraco-silicosis, or asbestosis, when accompanied by active pulmonary tuberculosis.

Silicosis, anthraco-silicosis, or asbestosis, total disability or death only.

(f) If it be shown that the employe, at or immediately before the date of disability, was employed in any occupation or industry in which the occupational disease is a hazard, it shall be presumed that the employe's occupational disease arose out of and in the course of his employment, but this presumption shall not be conclusive.

Presumption disease caused by special hazard of industry.

(g) The employer liable for the compensation provided by this article shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease claimed, regardless of the length of time of such last exposure: Provided, That when a claimant alleges that disability or death was due to silicosis, anthraco-silicosis, asbestosis or any other occupational disease which developed to the point of disablement only after an exposure of five or more years, the only employer liable shall be the last employer in whose employment the employe was last exposed to the hazard of such occupational disease during a period of six months or more after the effective date of this act; and in such cases an exposure during a period of less than six months after the effective date of this act shall not be deemed an exposure. The notice of disability or death and claim shall be made to the employer who is liable under this subsection, and his insurance carrier, if any.

Which employer liable.

Proviso.

Notice.

Payments in instalments.

(h) Except as hereinafter provided, all compensation payable under this article shall be payable in periodic instalments, as the wages of the employe were payable before the accident.

Contracts after October 1, 1939.

Section 302. (a) In every contract of hiring made after October first, one thousand nine hundred and thirty-nine, and in every contract of hiring renewed or extended by mutual consent, expressed or implied, after said date, it shall be conclusively presumed that the parties have accepted the provisions of article three of this act, and have agreed to be bound thereby, unless the employer shall post at his plant, office or place of business a notice of his intention not to pay such compensation or unless there be, at the time of the making, renewal, or extension of such contract, an express statement in writing, from either party to the other, that the provisions of article three of this act are not intended to apply, and unless a true copy of such posted notice or such written statement, accompanied by proof of posting or proof of service thereof upon the other party, setting forth under oath or affirmation the time, place, and manner of such posting or service, be filed with the department within twenty days after such posting or service. Every contract of hiring, oral, written, or implied from circumstances, now in operation, or made or implied on or before October first, one thousand nine hundred and thirty-nine, shall be conclusively presumed to continue subject to the provisions of article three hereof, unless the employer shall on or before said date either post at his plant, office or place of business a notice of his intention not to pay such compensation or unless either party shall, on or before said date, in writing, have notified the other party to such contract that the provisions of article three hereof are not intended to apply, and unless there shall be filed with the department a true copy of such notice, together with proof of posting or service, within the time and in the manner hereinabove prescribed: Provided, however, That the provisions of this section shall not be so construed as to impair the obligation of any contract now in force. Such posted notice shall constitute sufficient notice to all employes and to the parents and guardians of all minor employes, and a certified copy of proof of posting or proof of service shall be prima facie evidence of notice. It shall not be lawful for any officer or agent of this Commonwealth, or for any county, city, borough, town, or township therein, or for any officer or agent thereof, or for any other governmental authority created by the laws of this Commonwealth, to give such notice of rejection of the provisions of this article to any employe of the Commonwealth or of such governmental agency.

Presumption of acceptance of provisions of article three of act.

Rejection of act and notice thereof.

Contracts before October 1, 1939.

Presumed to continue under article three.

Notice.

Proviso.

Commonwealth or subdivisions not to give notice of rejection to employes.

(b) After October first, one thousand nine hundred and thirty-nine, an employer who permits the entry, upon premises occupied by him or under his control, of a laborer or an assistant hired by an employe or contractor, for the performance upon such premises of a part of the employer's regular business entrusted to that employe or contractor, shall be conclusively presumed to have agreed to pay to such laborer or assistant compensation in accordance with the provisions of article three, unless the employer shall post at his plant, office or place of business a notice of his intention not to pay such compensation, and unless there be filed with the department within twenty days thereafter, a true copy of such notice, together with proof of the posting of the same, setting forth upon oath or affirmation the time, place, and manner of such posting; and after October first, one thousand nine hundred and thirty-nine, any such laborer or assistant who shall enter upon premises occupied by or under control of such employer, for the purpose of doing such work, shall be conclusively presumed to have agreed to accept the compensation provided in article three, in lieu of his right of action under article two, unless he shall have given notice in writing to the employer, at the time of entering upon such employer's premises for the purpose of doing his work, of his intention not to accept such compensation, and unless within twenty days thereafter there shall have been filed with the department a true copy of such notice, accompanied by proof of service thereof upon such employer, setting forth under oath or affirmation the time, place, and manner of such service. And in such cases where article three binds such employer and such laborer or assistant, it shall not be in effect between the intermediate employer or contractor and such laborer or assistant, unless otherwise expressly agreed.

After October 1, 1939.

Liable to assistant hired by an employe or contractor on premises.

Unless notice posted, etc.

After October 1, 1939.

Presumption of acceptance of article three by laborer or assistant.

Unless notice given, etc.

Intermediate employer or contractor not liable, unless agreed otherwise.

(c) Any notice given hereunder by an employer to his employes need not be addressed to each employe individually, but may be addressed to all employes. Proof of service of any number of statements or notices may be made in one affidavit, but such affidavit shall state the time and place of each service.

Notices by employer to employes need not be individual.

Section 303. Such agreement shall constitute an acceptance of all the provisions of article three of this act, and shall operate as a surrender by the parties thereto of their rights to any form or amount of compensation or damages for any disability or death resulting from occupational disease, or to any method of determination thereof, other than as provided in article three of this act. Such agreement shall bind the employer and his personal representatives, and the employe, his or her wife, or husband, widow or widower, next of kin, and other dependents.

Acceptance.

Persons bound.

Termination of agreement as to operation or non-operation of article three.

Section 304. Any agreement between employer and employe for the operation or non-operation of the provisions of article three of this act may be determined by the posting of notice by the employer or by either party upon thirty days' notice to the other in writing, if a copy of such notice, with proof of posting or proof of service, be filed in the department as provided in section three hundred and two of this article.

Employer to insure.

Section 305. Every employer liable under this act to pay compensation shall insure the payment of compensation in the State Workmen's Insurance Fund, or in any insurance company, or mutual association or company, authorized to insure such liability in this Commonwealth, unless such employer shall be exempted by

Self insurance.

the department from such insurance. An employer desiring to be exempt from insuring the whole or any part of his liability for compensation shall make application to the department, showing his financial ability to pay such compensation, whereupon the department, if the applicant establishes his financial ability, shall issue to

Permit.

the applicant a permit authorizing such exemption. From a refusal of the department to issue such permit,

Appeal on refusal.

an appeal shall lie to the court of common pleas of Dauphin County. In any such appeal, the only question shall be whether the department abused its discretion in refusing such permit. The department shall establish a period of twelve calendar months, to begin and end at such times as the department shall prescribe, which

Annual exemption period.

shall be known as the annual exemption period. Unless previously revoked, all permits issued under this section shall expire and terminate on the last day of the annual exemption period for which they were issued.

Renewal.

Permits issued under this act shall be renewed upon the filing of an application. The department may, from

Revocation.

time to time, require further statements of the financial ability of such employer, and, if at any time such employer appear no longer able to pay compensation, shall

Effect.

revoke its permit granting exemption, in which case the employer shall immediately subscribe to the State Workmen's Insurance Fund or insure his liability in any insurance company or mutual association or company, as aforesaid.

Failure of employer to comply.

If any employer fails to comply with the provisions of this section, such employer shall be guilty of a misdemeanor, and, upon conviction thereof for every such failure, shall be sentenced to pay a fine of not less than

Penalty.

one hundred dollars or more than five hundred dollars, and costs of prosecution, or imprisonment for a period of not more than six months, or both, at the discretion of the court. Every day's violation shall constitute a

Enforcement.

separate offense. It shall be the duty of the department to enforce the provisions of this section; and it shall in-

vestigate all violations that are brought to its notice and shall institute prosecutions for violations thereof. All fines recovered under the provisions of this section shall be paid by the clerk of the court to the department and by it paid into the State Treasury.

Disposition of fines.

Section 306. The following schedule of compensation is hereby established for total disability resulting from occupational disease, subject to the limitations of section 301:

Schedule of compensation.

(a) For the first five hundred weeks after the seventh day of total disability sixty-six and two-thirds per centum of the wages of the disabled employe as defined in section three hundred and nine; but the compensation shall not be more than twenty dollars per week nor less than ten dollars per week, and shall not exceed in the aggregate the sum of ten thousand dollars: Provided, That if at the date when disability begins, the employe receives wages of less than ten dollars per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than five dollars per week. Nothing in this clause shall require payment of compensation after disability shall cease. Should partial disability be followed by total disability, the period of five hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

Total disability.

Total disability following partial disability.

(b) For disability partial in character (except the particular cases mentioned in clause (c)) sixty-six and two-thirds per centum of the difference between the wages of the disabled employe, as defined in section three hundred and nine, and the earning power of the employe thereafter; but such compensation shall not be more than seventeen dollars per week. This compensation shall be paid during the period of such partial disability, not, however, beyond three hundred weeks after the seventh day of disability. Should total disability be followed by partial disability, the period of three hundred weeks mentioned in this clause shall be reduced by the number of weeks during which compensation was paid for total disability. The term "earning power," as used in this section, shall in no case be less than the weekly amount which the employe receives after disability begins.

Partial disability.

Partial disability following total disability.

"Earning power."

(c) For all disability resulting from loss or loss of the use of members resulting from occupational disease, the compensation shall be exclusively as follows:

Schedule for loss or loss of use of members through occupational disease.

For the loss of a hand, sixty-six and two-thirds per centum of wages during one hundred and seventy-five weeks.

For the loss of a forearm, sixty-six and two-thirds per centum of wages during one hundred and ninety-five weeks.

For the loss of an arm, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of a foot, sixty-six and two-thirds per centum of wages during one hundred and fifty weeks.

For the loss of a lower leg, sixty-six and two-thirds per centum of wages during one hundred and eighty weeks.

For the loss of a leg, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of an eye, sixty-six and two-thirds per centum of wages during one hundred and twenty-five weeks.

For the complete loss of hearing in both ears, sixty-six and two-thirds per centum of wages during one hundred and fifty weeks.

For the loss of a thumb, sixty-six and two-thirds per centum of wages during sixty weeks.

For the loss of a first finger, commonly called index finger, sixty-six and two-thirds per centum of wages during thirty-five weeks.

For the loss of a second finger, sixty-six and two-thirds per centum of wages during thirty weeks.

For the loss of a third finger, sixty-six and two-thirds per centum of wages during twenty weeks.

For the loss of a fourth finger, commonly called little finger, sixty-six and two-thirds per centum of wages during fifteen weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered equivalent to the loss of one-half of such thumb, or finger, and shall be compensated at the same rate as for the loss of a thumb, or finger, but for one-half of the period provided for the loss of a thumb, or finger.

The loss of more than one phalange of a thumb, or finger, shall be considered equivalent to the loss of the entire thumb or finger.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

For the loss of a great toe, sixty-six and two-thirds per centum of wages during forty weeks.

For the loss of any other toe, sixty-six and two-thirds per centum of wages during sixteen weeks.

The loss of the first phalange of the great toe, or of any toe, shall be considered equivalent to the loss of one-half of such great toe, or other toe, and shall be compensated at the same rate as for the loss of a great toe, or other toe, but for one-half of the period provided for the loss of a great toe or other toe.

The loss of more than one phalange of a great toe, or any toe, shall be considered equivalent to the loss of the entire great toe or other toe.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

Unless the board shall otherwise determine, the loss of both hands or both arms or both feet or both legs or both eyes shall constitute total disability, to be compensated according to the provisions of clause (a).

Amputation.

Amputation at the wrist shall be considered as the equivalent of the loss of a hand, and amputation at the ankle shall be considered as the equivalent of the loss of a foot. Amputation between the wrist and the elbow shall be considered as the loss of a forearm, and amputation between the ankle and the knee shall be considered as the loss of a lower leg. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg, eye, finger, or thumb, great toe or other toe, shall be considered as the equivalent of the loss of such hand, arm, foot, leg, eye, finger, or thumb, great toe or other toe.

Rate of compensation.

This compensation shall not be more than twenty dollars per week nor less than ten dollars per week: Provided, That if at the time of disability the employe receives wages of less than ten dollars per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than five dollars per week.

When compensation begins.

(d) The period of five hundred weeks mentioned in clause (a), three hundred weeks mentioned in clause (b), and the specific periods (or aggregate specific periods, as the case may be) mentioned in clause (c), shall begin to run seven days after disability begins, and shall run concurrently.

First seven days.

(e) No compensation shall be allowed for the first seven days after disability begins, except as hereinafter provided in clause (f) of this section.

Surgical and medical services.

(f) During the first sixty days after disability begins, the employer shall furnish reasonable surgical and medical services, medicines, and supplies, as and when needed, unless the employe refuses to allow them to be furnished by the employer. The cost of such services, medicines, and supplies, shall not exceed one hundred and fifty dollars, except that the board, upon petition of the claimant, may grant extra medical services for an additional thirty days, not to exceed seventy-five dollars. If the employer shall, upon application made to him refuse to furnish such services, medicines, and sup-

plies, the employe may procure same and shall receive from the employer the reasonable cost thereof within the above limitations. In addition to the above service, medicines, and supplies, hospital treatment, services, and supplies shall be furnished by the employer for the said period of sixty days, except that the board, upon petition of the claimant, may grant an additional thirty days. The cost for such hospital treatment, service, and supplies, shall not in any case exceed the prevailing charge in the hospital for like services to other individuals. If the employe shall refuse reasonable surgical, medical, and hospital services, medicines, and supplies, tendered to him by his employer, he shall forfeit all rights to compensation for disability or any increase in his disability shown to have resulted from such refusal.

Refusal by employe.

Death of employe.

Effect.

(g) Should the employe die as a result of the occupational disease, the period during which compensation shall be payable to his dependents, under section three hundred and seven of this article, shall be reduced by the period during which compensation was paid to him in his lifetime, under this section of this article. No reduction shall be made for the amount which may have been paid, or contracted to be paid, for medical and hospital services and medicines, nor for the expenses of the last sickness and burial. Should the employe die from some other cause than the occupational disease, the liability for compensation shall cease.

Death from other causes.

Compensation in case of death of employe.

Section 307. In case of death resulting from occupational disease, compensation shall be computed on the following basis and distributed to the following persons, subject to the limitations of section 301:

To child or children.

1. If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children, or, if there be no guardian, to such other persons as may be designated by the board as hereinafter provided, as follows:

(a) If there be one child, twenty-five per centum of wages of deceased, but not in excess of seven dollars per week.

(b) If there be two children, thirty-five per centum of wages of deceased, but not in excess of ten dollars per week.

(c) If there be three children, forty-five per centum of wages of deceased, but not in excess of thirteen dollars per week.

(d) If there be four children, fifty-five per centum of wages of deceased, but not in excess of sixteen dollars per week.

(e) If there be five children, sixty-two and one-half per centum of wages of deceased, but not in excess of eighteen dollars per week.

(f) If there be six or more children, sixty-six and

two-thirds per centum of wages of deceased, but not in excess of twenty dollars per week.

2. To the widow or widower, if there be no children, forty-four per centum of wages, but not in excess of twelve dollars per week. To widow or widower, if no children.

3. To the widow or widower, if there be one child, fifty-three per centum of wages, but not in excess of fifteen dollars per week. If one child.

4. To the widow or widower, if there be two children, sixty-two and one-half per centum of wages, but not in excess of eighteen dollars per week. If two children.

5. To the widow or widower, if there be three or more children, sixty-six and two-thirds per centum of wages, but not in excess of twenty dollars per week. If three or more children.

6. If there be neither widow, widower, nor children, entitled to compensation, then to the father or mother, if dependent to any extent upon the employe at the time of his death, twenty-five per centum of wages, but not in excess of six dollars per week: Provided, however, That in the case of a minor child who has been contributing to his parents, the dependency of said parents shall be presumed: And provided further, That if the father or mother was totally dependent upon the deceased employe at the time of his death, the compensation payable to such father or mother shall be forty-five per centum of wages, but not in excess of eleven dollars per week. To father or mother. Proviso. Proviso.

7. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, fifteen per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of twenty-five per centum, such compensation to be paid to their guardian, or, if there be no guardian, to such other person as may be designated by the board, as hereinafter provided. To brothers and sisters.

8. Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding two hundred dollars, which shall be paid by the employer or insurer directly to the undertaker (without deduction of any amounts theretofore paid for compensation or for medical expenses). Expense of burial.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, or sister is under the age of sixteen. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him and receiving from him a substantial portion of her support. No compensation shall be payable under this section to a widower, unless When compensation shall be payable.

he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. If members of decedent's household at the time of his death, the terms "child" and "children" shall include stepchildren, adopted children, and children to whom he stod in loco parentis and shall include posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, That upon remarriage of any widow the compensation of such widow shall continue, as hereinbefore provided, for one-third of the period during which compensation then remains payable to her: Provided further, That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

"Child" and "children."

Remarriage of widow.

Meretricious relationship.

Basis of compensation.

The wages upon which death compensation shall be based shall not in any case be taken to exceed thirty dollars per week, nor be less than seventeen dollars per week.

When compensation shall be payable.

This compensation shall be paid during three hundred weeks and, in the case of children entitled to compensation under this section, the compensation of each child shall continue after said period of three hundred weeks until such child reaches the age of sixteen, at the rate of seventeen and one-half per centum of wages, but not in excess of four and a half dollars per week, if there is one child; twenty-seven and one-half per centum of wages, but not in excess of seven dollars per week, if there are two children; thirty-eight and one-half per centum of wages, but not in excess of ten dollars per week, if there are three children; fifty per centum of wages, but not in excess of thirteen dollars per week, if there are four children; fifty-five per centum of wages, but not in excess of fourteen dollars per week, if there be five children; and sixty per centum of wages, but not in excess of sixteen dollars per week, if there be six children or more.

Payment to guardian.

The board may, if the best interests * of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a

* "interest" in the original.

widow or a widower on account of any child or children, to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board, as hereinafter provided, may direct. If there be no guardian or committee of any minor, dependent or insane employe, or dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent or insane employe, or dependent may be paid to any surviving parent, or to such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent or insane employe, or dependent, to be paid, to render, as and when it shall so order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Account.

Bond.

Were payments jointly by employer and Commonwealth.

Section 308. (a) When compensation is awarded because of disability or death caused by silicosis, anthraco-silicosis, asbestosis, or any other occupational disease which developed to the point of disablement only after an exposure of five or more years, the compensation for disability or death due to such disease shall be paid jointly by the employer and the Commonwealth, in accordance with the following provisions: If disability begins between October 1, 1939, and September 30, 1941, both dates inclusive, the employer shall be liable for and pay fifty per centum of the compensation due and the Commonwealth fifty per centum thereof. Thereafter, depending upon the date when disability begins, the proportions of compensation for which the employer and the Commonwealth shall respectively become liable shall be: If disability begins between October 1, 1941, and September 30, 1943, the employer sixty per centum and the Commonwealth forty per centum; if between October 1, 1943, and September 30, 1945, the employer seventy per centum and the Commonwealth thirty per centum; if between October 1, 1945, and September 30, 1947, the employer eighty per centum and the Commonwealth twenty per centum; if between October 1, 1947, and September 30, 1949, the employer ninety per centum and the Commonwealth ten per centum. The employer shall pay the full amount of compensation provided in this act for disability or death in all cases where disability begins on or after October 1, 1949.

Liability of Occupational Disease Fund transferred to Commonwealth.

(b) Compensation payable by the Commonwealth under subsection (a) of this section shall be paid out of appropriations made from time to time to the department out of the General Fund in the State Treasury.

Liability of Commonwealth to be discharged by appropriations from General Fund.

Department of Labor and Industry to be named codefendant in claims for compensation.

(c) In all claims for compensation partially payable by the Commonwealth under subsection (a) of this section, the department shall be designated as a codefendant.

(d) In all agreements for the payment of compensation and all awards, the amount payable by the employer and the amount payable by the Commonwealth shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay under subsection (a) of this section, not to exceed the stated percentage of the maximum payable by the employer under section 301 (a) 2 of this act, or if section 301 (a) 2 be inapplicable, then under sections 306 and 307 of this act. A separate award shall be made against the Commonwealth for the balance of the compensation payable under said sections, which shall be payable out of appropriations made as aforesaid.

"Wages" construed as average weekly wages.

Section 309. Wherever in this article the term "wages" is used, it shall be construed to mean the average weekly wages of the employe ascertained as follows:

Method of determining the average weekly wage.

(a) If at the time of the disability the wages are fixed by the week, the amount so fixed shall be the average weekly wage.

(b) If at the time of the disability the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed, multiplied by twelve and divided by fifty-two.

(c) If at the time of the disability the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed, divided by fifty-two.

(d) If at the time of the disability the wages are fixed by the day, hour, or by the output of the employe, the average weekly wage shall be the wage most favorable to the employe, computed by dividing by thirteen the total wages of said employe earned in the employ of the employer in the first, second, third, or fourth period of thirteen consecutive calendar weeks in the fifty-two weeks immediately preceding the accident, or in case the employe receives wages monthly, or semimonthly, by dividing by thirteen the total wages of said employe earned in the employ of the employer in the first, second, third, or fourth period of three consecutive calendar months in the year immediately preceding the accident.

If the employe has been in the employ of employer less than thirteen calendar weeks, (or three calendar months if the employe receives wages monthly, or semi-monthly) immediately preceding the disability, his average weekly wage shall be computed under the foregoing paragraph, taking "total wages" for such purpose to be the amount he would have earned had he been so employed by employer the full thirteen calendar weeks, (or three calendar months) immediately preceding the disability, and had worked when work was available to other employes in a similar occupation, unless it be conclusively shown that, by reason of exceptional causes, such method of computation does not ascertain fairly the "total wages" of the employe so employed less than thirteen calendar weeks (or three calendar months).

(e) In occupations which are exclusively seasonal, and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one-fiftieth of the total wages which the employe has earned from all occupations during the twelve calendar months immediately preceding the disability, unless it be shown that during such year, by reason of exceptional causes, such method of computation does not ascertain fairly the earnings of the employe, in which case the period for calculation shall be extended so far as to give a basis for the fair ascertainment of his average weekly earnings.

The terms * "average weekly wage" and "total wages," as used in this section, shall include board and lodging received from the employer, and when so received, the board shall be rated at fifty cents per day, and board together with lodging shall be rated at one dollar per day; but such terms shall not include gratuities received from the employer, or others, nor shall such terms include amounts deducted by the employer under the contract of hiring for labor furnished, or paid for by the employer, and necessary for the performance of such contract by the employe; nor shall such terms include deductions from wages due the employer for rent, and supplies necessary for the employe's use in the performance of his labor.

Where the employe is working under concurrent contracts with two or more employers, and the defendant employer has knowledge of such employment prior to the disability, his wages from all such employers shall be considered as if earned from the employer liable for compensation.

Alien dependents not residents of United States.

Section 310. Alien widows, children, widowers, parents, brothers, and sisters, not residents * of the United States, shall not be entitled to any compensation.

* "term" in the original.
* "resident" in the original.

Notice to employer of disability.

Section 311. Unless the employe or someone in his behalf, or some of the dependents or someone in their behalf, shall give notice of disability to the employer liable for compensation under this article, within fourteen days after the disability begins, no compensation shall be due until such notice be given, and unless such notice be given within ninety days after the beginning of disability no compensation shall be allowed.

Form of notice.

Section 312. The notice referred to in section three hundred and eleven hereof shall be substantially in the following form:

To (name of employer).

You are hereby notified that (name of employe disabled), who was in your employment at (place), while engaged as (kind of employment) became disabled as the result of (name of occupational disease), on or about the ..... day of ....., Anno Domini ....., and that compensation will be claimed therefor.

Date .....; Signed .....

But no variation from this form shall be material if the notice be sufficient to inform the employer that a certain employe, by name, became disabled as the result of occupational disease, the character of which is described in ordinary language, in the course of his employment on or about a time specified.

Notices—how served.

Section 313. The notices referred to in section three hundred and two and section three hundred and eleven hereof may be served personally upon the employer, or upon the manager or superintendent in charge of the works or business in which the employe was working, or by sending them through the registered mail to the employer at his or its last known residence or place of business, or, if the employer be a corporation, either foreign or domestic, then upon the president, vice-president, secretary, or treasurer thereof. Notice served upon any of said agents shall be notice to the employer.

Examination by physician.

Section 314. At any time after disability begins, the employe, if so requested by his employer, must submit himself for examination, at some reasonable time and place, to a physician or physicians legally authorized to practice under the laws of such place, who shall be selected and paid by the employer. If the employe shall refuse, upon the request of the employer, to submit to the examination by the physician or physicians selected by the employer, the board may, upon petition of the employer, order the employe to submit to an examination at a time and place set by it, and by the physician or physicians selected and paid by the employer, or by a physician or physicians designated by it and paid by the employer; and if the employe shall, without reasonable cause or excuse, disobey or disregard such order, he

shall be deprived of his right to compensation under this article. The board may at any time after such first examination, upon petition of the employer, order the employe to submit himself to such further examinations as it shall deem reasonable and necessary, at such times and places and by such physicians as it may designate; and, in such case, the employer shall pay the fees and expenses of the examining physician or physicians, and the reasonable traveling expenses and loss of wages incurred by the employe in order to submit himself to such examination. The refusal or neglect, without reasonable cause or excuse, of the employe to submit to such examination ordered by the board, either before or after an agreement or award, shall deprive him of the right to compensation, under this article, during the continuance of such refusal or neglect, and the period of such neglect or refusal shall be deducted from the period during which compensation would otherwise be payable.

The employe shall be entitled to have a physician or physicians of his own selection, to be paid by him, participate in any examination requested by his employer or ordered by the board.

Time limits for filing claims for compensation in cases of disability.

Section 315. In cases of disability all claims for compensation shall be forever barred, unless, within one year after the disability begins, the parties shall have agreed upon the compensation payable under this article, or unless, within one year after the disability begins, one of the parties shall have filed a petition as provided in article four hereof. In cases of death all claims for compensation shall be forever barred, unless, within one year after the death, the parties shall have agreed upon the compensation payable under this article, or unless, within one year after the death, one of the parties shall have filed a petition as provided in article four hereof. Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the expiration of one year from the time of the making of the most recent payment made prior to the date of filing such petition.

When claims for compensation in cases of death must be filed; in varying cases.

Commuted payments.

Section 316. The compensation contemplated by this article may at any time be commuted by the board, at its then value when discounted at five per centum interest, with annual rests, upon application of either party, with due notice to the other, if it appear that such commutation will be for the best interest of the employe or the dependents of the deceased employe, and that it will avoid undue expense or undue hardship to either party, or that such employe or dependent has removed or is about to remove from the United States, or that the employer has sold or otherwise disposed of the whole or the greater part of his business or assets: Provided,

Indemnity for employer.

however, That unless the employer agrees to make such commutation, the board shall require the employe or the dependents of the deceased employe to furnish proper indemnity safeguarding the employer's rights.

Payment of award to a trustee.

Section 317. At any time after the approval of an agreement or after the entry of the award, a sum equal to all future instalments of compensation may (where death or the nature of the disability renders the amount of future payments certain), with the approval of the board, be paid by the employer to any savings bank, trust company, or life insurance company, in good standing and authorized to do business in this Commonwealth, and such sum, together with all interest thereon, shall thereafter be held in trust for the employe or the dependents of the employe, who shall have no further recourse against the employer. The payment of such sum by the employer, evidenced by the receipt of the trustee noted upon the prothonotary's docket, shall operate as a satisfaction of said award as to the employer. Payments from said fund shall be made by the trustee in the same amounts and at the same periods as are herein required of the employer, until said fund and interest shall be exhausted. In the appointment of the trustee preference shall be given, in the discretion of the board, to the choice of the employe or the dependents of the deceased employe. Should, however, there remain any unexpended balance of any fund after the payment of all sums due under this act, such balance shall be repaid to the employer who made the original payment, or to his legal representatives.

Payments from fund by trustee.

Unexpended balance.

Legal obligation of employer for compensation payments.

Section 318. The right of compensation granted by this article shall have the same preference (without limit of amount) against the assets of an employer, liable for such compensation, as is now or may hereafter be allowed by law for a claim for unpaid wages for labor: Provided, however, That no claim for compensation shall have priority over any judgment, mortgage, or conveyance of land recorded prior to the filing of the petition, award, or agreement as to compensation in the office of the prothonotary of the county in which the land is situated. Claims for payments due under this article of this act shall not be assignable, and (except as provided in section five hundred and one of article five hereof) shall be exempt from all claims of creditors, and from levy, execution, or attachment, which exemption may not be waived.

Employer—right of subrogation.

Section 319. Where the compensable injury is caused in whole or in part by the act or omission of a third party, the employer shall be subrogated to the right of the employe, his personal representative, his estate or his dependents, against such third party for the balance of any sum recovered in litigation, or paid in compro-

mise settlement, after subtraction of reasonable attorney's fees and other proper disbursements, but only to the extent of the compensation payable under this article by the employer. Any recovery against such third person in excess of the compensation theretofore paid by the employer shall be paid forthwith to the employe or to the dependents, and shall be treated as an advance payment by the employer on account of any future instalments of compensation.

Illegal employment of minor.

Disability or death.

Additional compensation.

Section 320. (a) If the employe is a minor, under the age of eighteen years, employed or permitted to work in violation of any provision of the laws of this Commonwealth relating to minors of such age, compensation, either in the case of disability or death of such employe, shall be one hundred and ten per centum of the amount that would be payable to such minor if legally employed. The amount by which such compensation shall exceed that provided for in case of legal employment may be referred to as "additional compensation."

Liability of employer.

(b) The employer and not the insurance carrier shall be liable for the additional compensation. Any provision in an insurance policy undertaking to relieve an employer from such liability shall be void.

Where future payments certain.

(c) Where death or the nature of the disability renders the amount of future payments certain, the total amount of the additional compensation, subject to discount as in the case of commutation, shall be immediately due and payable. It shall be deposited, subject to the approval of the board, in any savings bank, trust company, or life insurance company in good standing and authorized to do business in this Commonwealth.

Where future payments uncertain.

Where the amount of the future payments of compensation is uncertain, the board shall, upon the approval of the agreement or the entry of an award, determine as nearly as may be the total amount of payment to be made, and the additional compensation so calculated shall, immediately upon such determination, become due and payable by the employer. The amount may be redetermined by the board, and any increase shall then become due and payable, and any excess, which shall be shown to have been paid, shall be returned to the person paying the same. Upon determination of the amount due, it shall be deposited as above provided. Payments of compensation out of deposits shall be made to the employe or dependents as payments of other compensation are made: Provided, however, That the board may, in its discretion and upon inquiry as in cases of commutation, accelerate such payments.

Amount may be redetermined.

Acceleration of payments.

Exemption.

(d) The provisions of the foregoing paragraph (c) shall not apply to employers who are exempted by the department from the necessity of carrying insurance.

Employment certificate as evidence.

(e) Possession of an employment certificate, duly issued and transmitted to the employer in accordance with the provisions of the child labor law, and receipt thereof duly acknowledged by him, shall be conclusive evidence to such employer of his legal right to employ the minor for whose employment such certificate has been issued.

Age certificate.

(f) The possession of an age certificate, duly issued and transmitted to the employer by the school authorities of the school district in which a minor resides, shall be conclusive evidence to the employer of the minor's age as certified therein.

Employer.

(g) If neither party has elected not to be bound by the provisions of article three of the act to which this act is an amendment, in the manner prescribed by section three hundred and two of said act, they shall be held to have agreed to be bound by the provisions of this act, and to have waived any other right or remedy at law or in equity, for the recovery of damages for injuries occurring under the circumstances herein described.

ARTICLE IV
Procedure

Section 401. The term "employer," when used in this article, shall mean the employer as defined in article one of this act, or his duly authorized agent, or his insurer if such insurer has assumed the employer's liability, or the State Workmen's Insurance Fund of this Commonwealth if the employer be insured therein.

Department of Labor and Industry deemed a party in interest in any proceeding hereunder.

The department shall be deemed a "party in interest" in any proceeding under this article before a referee, the board or any court involving any claim for compensation, a part of which is payable by the Commonwealth under the provisions of this act.

The term "medical board" shall mean a medical board constituted as provided in section four hundred and two.

Transfers to General Fund provided.

Section 2. The State Treasurer upon requisition of the Governor is hereby directed to transfer to the General Fund:

(a) All moneys whatsoever now standing to the credit of the Second Injury Reserve Account in the State Workmen's Insurance Fund under the provisions of the Occupational Disease Compensation Act, approved the second day of July, one thousand nine hundred and thirty-seven (Pamphlet Laws, two thousand seven hundred fourteen), which was repealed by the act to which this act is an amendment.

(b) The sum of one hundred thousand dollars ($100,000) heretofore appropriated to the Occupational

Disease Fund (which is abolished by this act) in the State Workmen's Insurance Fund by the act to which this act is an amendment.

Such sums so transferred are hereby lapsed into the General Fund.

Formation and constitution of medical board.

Section 402. (a) Immediately after this act becomes effective, the Governor shall request the deans of all legally recognized medical schools in Pennsylvania to serve as a committee whose duty it shall be to nominate ten physicians, especially qualified by training and experience, for membership on the medical board. Of the ten nominees, three shall be roentgenologists * and three shall be pathologists. The committee of deans shall certify its nominations to the Secretary of Labor and Industry.

No term.

Compensation.

(b) From the names certified to him as aforesaid, the Secretary of Labor and Industry, with the approval of the Governor, shall select a medical board of three members, which shall include one roentgenologist** and one pathologist. Members of the medical board shall serve without term, and shall receive for their entire services in each case submitted to them, the sum of one hundred dollars ($100). Their compensation and necessary traveling expenses shall be paid out of the appropriation to the department for the administration of this act.

(c) From time to time, the Governor may request the deans of all legally constituted medical schools in Pennsylvania, to certify additional lists of names to the Secretary of Labor and Industry. Such lists shall contain six names of whom two shall be roentgenologists*** and two pathologists.

(d) With the approval of the Governor, the Secretary of Labor and Industry may from time to time fill vacancies in the membership of the medical board, from the names certified to him by said deans of medical schools.

Power and duty of medical board.

(e) The medical board shall have the power and its duty shall be to hear and determine controverted medical issues in cases arising under this act in accordance with the provisions of section 420.

Petitions.

Section 403. (a) All proceedings before the board or any referee, and all appeals to the board, shall be instituted by petition addressed to the board. All petitions shall be in writing and in the form prescribed by the board.

To be filed in department.

(b) All petitions, all copies of agreements for compensation, and all papers requiring action by the board,

* "roentologists" in the original.
** "roentologist" in the original.
*** "roentologists" in the original.

shall be mailed or delivered to the department at its principal office.

Department to file and docket petitions, etc.

Section 404. The department shall, immediately upon their receipt, properly file and docket all petitions, agreements for compensation, findings of fact by the board or any referee, awards or disallowances of compensation, or modifications thereof, and all other reports or papers filed with it under the provisions of this act or the rules or regulations of the board.

Department to serve notice on parties in interest.

Section 405. Immediately upon receiving from the board or any referee any award or disallowance of compensation, or any modification thereof, or any other decision, the department shall serve a copy thereof on all parties in interest.

Method of serving notices.

Section 406. All notices and copies to which any party shall be entitled under the provisions of this article shall be served by mail, or in such manner as the board shall direct. For the purposes of this article any notice or copy shall be deemed served on the date when mailed, properly stamped and addressed, and shall be presumed to have reached the party to be served; but any party may show by competent evidence that any notice or copy was not received, or that there was an unusual or unreasonable delay in its transmission through the mails. In any such case proper allowance shall be made for the party's failure within the prescribed time to assert any right given him by this act.

Record of date of notice.

The department, the secretary of the board, and every referee shall keep a careful record of the date of mailing every notice and copy required by this act to be served on the parties in interest.

Agreements for compensation payments.

Section 407. On or after the seventh day after disability shall have begun or death shall have occurred, the employer and employe or his dependents may agree upon the compensation payable to the employe or his dependents under this act; but any agreement made prior to the seventh day after the disability shall have begun or the death shall have occurred, or permitting a commutation of payments contrary to the provisions of this act, or varying the amount to be paid or the period during which compensation shall be payable as provided in this act, shall be wholly null and void. It shall be unlawful for any employer to accept a receipt showing the payment of compensation when in fact no such payment has been made.

Acceptance of receipt when no payment made, unlawful.

Agreements in writing.

All agreements made in accordance with the provisions of this section shall be in writing, and signed by all parties in interest.

Agreements executed by minors sixteen years of age or over, valid and binding.

All agreements for compensation and all supplemental agreements for the modification, suspension, reinstatement, or termination thereof, and all receipts executed by any employe of whatever age, or by any dependent to whom compensation is payable under section three hundred and seven, and who has attained the age of sixteen years, shall be valid and binding unless modified or set aside as hereinafter provided.

Supplemental agreement.

Section 408. All agreements for compensation may be modified, suspended, reinstated, or terminated at any time by a supplemental agreement approved by the department, if the disability of an employe has increased, decreased, recurred, or temporarily or finally terminated, or if the status of any dependent has changed.

Agreement to be executed in triplicate.

Section 409. Whenever an agreement or supplemental agreement shall be executed between an employer and employe or his dependents as provided by this act, such agreement shall be executed in triplicate. Two copies thereof, signed by all parties in interest, shall be mailed or delivered to the department within thirty days after execution. It shall be the duty of the department to examine the agreement to determine whether it conforms to the provisions of section four hundred and seven, to notify the parties thereto of its validity or invalidity, under the aforesaid section, within thirty days after the copies of the agreement have been mailed or delivered to it, and, if the agreement be approved, to send to the employe or dependents, together with such notification of its approval, a copy of the agreement: Provided, however, That any payment made in accordance with any agreement prior to the receipt of notice of invalidity shall discharge pro tanto the liability, under article three of this act, of the employer making such payments.

Copies to department.

Examination.

Notification.

Copy of agreement to be sent to employe.

Proviso.

Claim to be presented to the board, on failure to agree.

Section 410. If, after any disability or death, the employer and the employe or his dependents shall fail to agree upon the facts thereof and the compensation due under this act, the employe or his dependents may present a claim for compensation to the board.

Whenever any claim for compensation is presented to the board, and is finally adjudicated in favor of the claimant, the amounts of compensation actually due at the time the first payment is made after such adjudication shall bear interest at the rate of six per centum per annum from the day such claim is presented, and such interest shall be payable to the same persons to whom the compensation is payable.

Interest.

Payment in case claimant dies before adjudication.

In case any claimant shall die before the final adjudication of his claim, the amount of compensation due such claimant to the date of death shall be paid to the

dependents entitled to compensation, or, if there be no dependents, then to the estate of the decedent.

Petitions on agreed facts.

Section 411. Whenever the employer and the employe or his dependent shall, on or after the seventh day after any disability begins or death occurs, agree on the facts on which a claim for compensation depends, but shall fail to agree on the compensation payable thereunder, they may petition the board to determine the compensation payable. Such petition shall contain the agreed facts, and shall be signed by all parties in interest. The board shall fix a time and place for hearing the petition, and shall notify all parties in interest. As soon as may be after such hearing, the board shall award or disallow compensation in accordance with the provisions of this act.

Petitions for commutation.

Section 412. If any party shall desire the commutation of future instalments of compensation, he shall present a petition therefor to the board.

Review and modification of agreements.

Section 413. The board, or a referee designated by the board, may, at any time, review and modify or set aside an original or supplemental agreement, upon petition filed by either party with the board or in the course of the proceedings under any petition pending before such board or referee, if it be proved that such agreement was procured by the fraud, coercion, or other improper conduct of a party, or was founded upon a mistake of law or of fact: Provided, That an agreement can only be reviewed, modified, or set aside if a petition is filed with the board within one year after the date of the most recent payment of compensation made prior to the date of filing such petition.

Proviso.

Modification of agreement or award upon change of disability or status.

The board or referee designated by the board, may, at any time, modify, reinstate, suspend, or terminate an original or supplemental agreement or an award, upon petition filed by either party with such board, upon proof that the disability of an injured employe has increased, decreased, recurred, or has temporarily or finally ceased, or that the status of any dependent has changed. Such modification, reinstatement, suspension, or termination shall be made as of date upon which it is shown that the disability of the employe has increased, decreased, recurred, or has temporarily or finally ceased, or upon which it is shown that the status of any dependent has changed: Provided, That an agreement or an award can only be reviewed, modified, or reinstated during the time such agreement or award has to run, if for a definite period; and no agreement or award shall be reviewed, or modified, or reinstated, unless a petition is filed with the board within one year after the date of the most recent payment of compensation made prior to the date of filing such petition.

Proviso.

Powers of board or referee.

The board or referee to whom any such petition has been assigned may subpoena witnesses, hear evidence, make findings of fact, and award, or disallow compensation in the same manner and with the same effect and subject to the same right of appeal, as if such petition were an original claim petition.

When petition a supersedeas.

The filing of a petition to terminate or modify a compensation agreement or award as provided in this section shall operate as a supersedeas, and shall suspend the payment of compensation fixed in the agreement or by the award, in whole or to such extent as the facts alleged in the petition would, if proved, require.

Assignment of petitions.

Section 414. Whenever a claim petition or other petition is presented to the board, the board shall, by general rules or special order, either direct it to be heard by one or more members of the board or assign it to a referee for hearing: Provided, however, That petitions presented under sections four hundred and eleven and four hundred and twelve shall be heard by one or more members of the board.

Proviso.

Copy of petition and notice served on adverse party.

The department shall serve upon each adverse party a copy of the petition, together with a notice that such petition will be heard by the board or the referee to whom it has been assigned (giving his name and address), as the case may be, and, if the petition shall have been assigned to a referee, shall mail the original petition to such referee, together with copies of the notices served upon the adverse parties.

Reassignment of petitions before award or disallowance or order made.

Section 415. At any time before an award or disallowance of compensation or order has been made by a referee to whom a petition has been assigned, the board may order such petition heard before it or one or more of its members or may reassign it to any other referee. Unless the board shall otherwise order, the testimony taken before the original referee shall be considered as though taken before the board or substituted referee.

Filing answers to petitions.

Section 416. Within ten days after a copy of any petition has been served upon any adverse party, he may file with the secretary of the board if the petition has been directed to be heard by the board, or with the referee if the petition has been assigned to a referee, an answer in the form prescribed by the board.

Proof of fact.

Every fact alleged in a petition not specifically denied by an answer so filed by an adverse party shall be deemed to be admitted by him. But the failure of any adverse party, or all of them, to deny a fact so alleged shall not preclude the board or referee before whom the petition is heard from requiring, of its or his own motion, proof of such fact.

Hearing on petition.

Notice.

Time of hearing.

Secretary to serve notice.

Section 417. As soon as may be after the twelfth day after notice that a petition has been directed to be heard by the board has been served upon the adverse parties thereto, the board shall fix a time and place for hearing the petition. If a petition be assigned to a referee, he shall, twelve days after notice that such petition has been assigned to him, has been served upon the adverse parties, fix a time and place for hearing the petition. Such hearing shall not be less than seven nor more than fourteen days after the mailing of notice thereof by the referee. The secretary of the board, if the petition has been directed to be heard by the board or by one or more of its members, or the referee to whom the petition has been assigned, shall serve upon all parties in interest a notice of the time and place of hearing, and shall serve upon the petitioner a copy of any answer of any adverse party.

Disposition of petitions heard by the board or referees.

Section 418. The board, if a petition is directed to be heard by it or by one or more of its members, or the referee to whom a petition is assigned for hearing may subpoena witnesses, order the production of books and other writings, and hear evidence, and shall make, in writing and as soon as may be after the conclusion of the hearing, such findings of fact,* conclusions of law, and award or disallowance of compensation, or other order, as the petition and answers and the evidence produced before it or him and the provisions of this act shall, in its or his judgment, require. The findings of fact made by the board in any petition heard by it or by one or more of its members or upon a hearing de novo shall be final, except as hereinafter provided, and the findings of fact made by a referee to whom a petition has been assigned or any question of fact has been referred under the provisions of section four hundred and nineteen shall be final, unless an appeal is taken as provided in this act, or unless the board shall, under the provisions of section four hundred and twenty-five of this article, grant a hearing de novo or a rehearing.

Question of fact—testimony may be taken by referee.

Section 419. (a) The board may refer any question of fact arising under any petition, including a petition for commutation heard by it, to a referee to hear evidence and report to the board the testimony taken before him or such testimony and findings of facts thereon as the board may order. The board may refer any question of fact arising out of any petition assigned to a referee, to any other referee to hear evidence and report the testimony so taken thereon to the original referee.

* "facts" in the original.

(b) The board or a referee, if it or he deem it necessary, may, of its or his own motion, either before, during, or after any hearing, make investigation of the facts set forth in the petition or answer. Board or referee may make investigation.

Section 420. (a) Whenever an appeal is taken from the decision of the referee to the board, under section 423, and the exceptions require a review of the referee's findings on medical questions, the board shall refer the case to the medical board for the determination of the medical facts. The medical board may appoint one or more impartial physicians, pathologists or roentgenologists * to examine the claimant, and the claimant shall subject himself to such clinical, pathological, and Roentgen examinations as in the opinion of the medical board may be necessary to determine whether or not the claimant has contracted or is suffering from the disease for which claim has been filed. Reference to medical board.

(b) The medical board shall have the power to subpoena witnesses, to administer oaths, and to order the production before it of books, records, and papers which may be relevant to any issue submitted to it for determination. Any person who has been directed by the medical board to make an examination of a claimant or an autopsy of a decedent for whose death compensation is claimed, shall give his testimony to the medical board either orally or in writing, and shall submit to cross-examination by counsel for claimant and defendant. All examiners and experts who make examinations at the instance of the medical board, shall receive such compensation as the medical board shall fix, with the approval of the Secretary of Labor and Industry, such compensation to be paid by the department and taxed as costs. Powers of medical board. Compensation of examiners and experts.

(c) After the medical board has completed its inquiry into any case submitted to it, it shall file with the board its written report setting forth its findings with respect to the following medical questions: Report of medical board.

1. Whether or not the claimant contracted or is suffering from the occupational disease alleged, and, in death cases, whether or not death was caused by such disease. Contents.

2. If the claimant has contracted or is suffering from the occupational disease alleged, its opinion as to the extent of the disability suffered by the claimant.

3. Findings on such other medical facts as appear warranted by the evidence.

The board shall mail a copy of such report and findings to the claimant and to the employer or his, their, or its insurers, within five (5) days from the date of the filing thereof. Copy of report to claimant.

* "roentologists" in the original.

Autopsy.

(d) The medical board shall order an autopsy to be made upon the decedent for the purpose of examination and tests to determine the cause of death when it deems such an autopsy to be necessary to determine the cause of death.

Findings of medical board.

(e) The reports and findings of the medical board shall be conclusive, except that upon appeal to the courts, the courts may inquire into the question whether the findings were based on sufficient, competent evidence.

Refusal of claimant to submit to examination.

(f) All the proceedings for compensation shall be suspended upon the refusal of a claimant or claimants to submit to such clinical, pathological and Roentgen examinations as may be ordered by the medical board.

Refusal to permit autopsy in death cases.

In death cases, in the event that a claimant or claimants shall refuse to permit an autopsy to be made upon the body of the decedent when ordered by the medical board, no compensation shall be payable, and claim therefor shall be disallowed by the board.

Hearings public.

Section 421. All hearings before the board or one or more members thereof, or before the medical board, or before a referee, shall be public.

Board, referees, or medical board not bound by technical rules of evidence.

Section 422. The board, its members, the referees, and the medical board shall not be bound by the technical rules of evidence in conducting hearings and investigations, but all findings of fact shall be based only upon sufficient, competent evidence to justify them.

Testimony or deposition may be taken within or outside the Commonwealth.

If any party or witness resides outside of the Commonwealth, or through illness or other cause is unable to testify before the board, a referee, or the medical board, his or her testimony or deposition * may be taken, within or without this Commonwealth, in such manner and in such form as the board may, by special order or general rule, prescribe.

Hospital records.

The records, kept by a hospital of the medical or surgical treatment given to an employe in such hospital, shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

Appeal to board from the referee's decision.

Section 423. Any party in interest may, within twenty days after notice of a referee's award or disallowance of compensation shall have been served upon him, take an appeal to the board on the ground: (1) that the award or disallowance of compensation is not in conformity with the terms of this act, or that the referee committed any other error of law; (2) that the findings of fact and award or disallowance of compensation was unwarranted by sufficient, competent evidence, or was procured by fraud, coercion, or other improper conduct of any party in interest. The board may, upon

* "disposition in the original.

cause shown, extend the time provided in this article for taking such appeal or for the filing of an answer or other pleading.

Board may disregard findings of fact by referee.

In any such appeal the board may disregard the findings of fact of the referee, and may examine the testimony taken before such referee, and if it deem proper may hear other evidence, and may substitute for the findings of the referee such findings of fact as the evidence taken before the referee and the board, as hereinbefore provided, may, in the judgment of the board, require, and may make such disallowance or award of compensation or other order as the facts so founded by it may require; but the board shall accept as conclusive upon it, the findings and conclusions of the medical board.

Error of law.

Section 424. Whenever an appeal shall be based upon an alleged error of law, it shall be the duty of the board to grant a hearing thereon. The board shall fix a time and place for such hearing, and shall serve notice thereof on all parties in interest.

Board may sustain or reverse referee's finding.

As soon as may be after such hearing, the board shall either sustain or reverse the referee's award or disallowance of compensation, or make such modification thereof as it shall deem proper.

Board may grant a hearing de novo.

Section 425. Whenever an appeal shall be taken on the ground that the referee's award or disallowance of compensation was unwarranted by the evidence, or because of fraud, coercion, or other improper conduct by any party in interest, the board may, in its discretion, grant a hearing de novo before the board or one or more of its members, or assign the petition for rehearing to any referee designated by it, or sustain the referee's award or disallowance of compensation. If the board shall grant a hearing de novo, it shall fix a time and place therefor and notify all parties in interest.

As soon as may be after any hearing de novo by the board, it shall in writing state its findings of fact, and award or disallow compensation in accordance with the provisions of this act.

Rehearing.

Section 426. The board, upon petition of any party and upon cause shown, at any time before the court of common pleas of any county of this Commonwealth to which an appeal has been taken under the provisions of section four hundred and twenty-seven of this article shall have taken final action thereon, may grant a rehearing of any petition upon which the board has made an award or disallowance of compensation or other order or ruling, or upon which the board has sustained or reversed any action of a referee; but such rehearing shall not be granted more than one year after the board has

Limitation.

"Sec. 426-427
For Amendment of May 27, 1943 Pamphlet Law 743
Re: Allegheny County—See Act No. 316, pages 85-86"

made such award, disallowance, or order or ruling, or has sustained or reversed any action of the referee. If the board shall grant a rehearing of any petition from the board's action on which an appeal has been taken to and is pending in the court of common pleas of any county of this Commonwealth under the provisions of section four hundred and twenty-seven of this article, the board shall file in such court a certified copy of its order granting such rehearing, and it shall thereupon be the duty of such court to cause the record of the case to be remitted to the board: Provided, however, That nothing contained in this section shall limit or restrict the right of the board, or a referee designated by the board, to review, modify, set aside, reinstate, suspend, or terminate, an original or supplemental agreement, or an award in accordance with the provisions of section four hundred thirteen of this article.

Rehearing by board of pending appeals to court of common pleas.

Proviso.

Appeals from board.

Section 427. Any party may appeal from any action of the board on matters of law to the court of common pleas of the county in which the employe was last employed prior to his disability or death or of the county in which the adverse party resides or has a permanent place of business, or, by agreement of the parties, to the court of common pleas of any other county of this Commonwealth. Such appeal must be brought within twenty days after notice of the action of the board has been served upon such party, unless any court of common pleas to which an appeal lies shall, upon cause shown, extend the time herein provided for taking the appeal. The party taking the appeal shall, at the time of taking the appeal, serve upon the adverse party a written notice thereof, setting forth the date of the appeal and the court in which the same is filed, and shall file, either with his notice of appeal, or within thirty days thereafter, such exceptions to the action of the board as he may desire to take, and shall specify the findings of fact, if any, of the board, or of the referee sustained by the board, which he alleges to be unsupported by sufficient, competent evidence.

Time for taking appeal may be extended.

Notice of appeal.

Exceptions filed.

Writ of certiorari to board for record.

Upon filing of the notice of an appeal, the prothonotary of the court of common pleas to which the appeal has been taken shall issue a writ of certiorari, directed to the board, commanding it, within ten days after service thereof, to certify to such court its entire record in the matter in which the appeal has been taken. The writ so issued shall be mailed by the prothonotary to the department at Harrisburg, together with a copy of the exceptions. The board shall, within ten days after such service, certify to such court its entire record in the matter in which the appeal has been taken, including the notes of testimony.

Any court before which an appeal is pending from any action of the board, may remit the record to the board for more specific findings of fact if the findings of the board or referee or of the medical board are not, in its opinion, sufficient to enable it to decide the question of law raised by the appeal.

Remission of record for more specific findings of fact.

If the court of common pleas of any county of this Commonwealth shall affirm an award or order of the board or of a referee, sustained by the board, fixing the compensation payable under this act, the court shall enter judgment for the total amount stated by the award or order to be payable, whether then due and accrued or payable in future instalments. If such court shall sustain the appellant's exceptions to a finding or findings of fact and reverse the action of the board founded thereon, the court shall remit the record to the board for further hearing and determination, in which the procedure shall be the same as that hereinbefore provided in this article in the case of a petition presented to the board, except that the testimony taken in the original proceedings shall be considered as though taken in such further hearing.

Actions of court.

The prothonotary of any court of common pleas to which an appeal has been taken from the board, shall send to the board a certificate of the judgment of the court as soon as rendered, with a copy of any opinion which may be filed in the case, and, within five days, shall give notice of such judgment, and the date thereof, by registered mail to each attorney at law appearing in the case at the address given by the attorney in the pleadings, and, if no attorney at law has appeared, by registered mail to the party or parties not represented by counsel. At the end of the period hereinafter allowed for an appeal from the judgment of the court, the record of the board shall be remitted to it by the prothonotary unless an appeal shall have been taken to the Superior Court as hereinafter provided. If such appeal shall be taken, the record shall be remitted to the board by the prothonotary on its return from the appellate court.

Certificate of judgment.

Notice to attorney-at-law or to parties not represented by counsel.

Any party may appeal to the Superior Court from the judgment of the court of common pleas within thirty days after entry of said judgment, irrespective of the amount involved. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Superior Court, and the record so certified shall contain all that was before the court of common pleas. Any appeal from the action of the board to a court of common pleas, and from it to the Superior Court, shall take precedence over all other civil actions. The judgment of the Superior Court shall be final, unless an appeal

Appeal to Superior Court.

Precedence.

Finality of judgment.

therefrom is allowed as in the case of other judgments of that court.

Recording of agreement, award, etc.

Section 428. Whenever the employer, who has accepted and complied with the provisions of section three hundred five, shall be in default in compensation payments for thirty days or more, the employe or dependents entitled to compensation thereunder may file a certified copy of the agreement and the order of the board approving the same, or of the award or order, with the prothonotary of the court of common pleas of any

As a judgment.

county, and the prothonotary shall enter the entire balance payable under the agreement, award or order to be

Acts as a lien.

payable to the employe or his dependents, as a judgment against the employer or other party liable under such agreement or award. Such judgment shall be a lien against property of the employer or other party liable under such agreement or award, and execution may issue thereon forthwith.

Judgment against employers.

Whenever, after disability or death, any employe or his dependents shall have entered into a compensation agreement with an employer liable for compensation under this act, who has not accepted or complied with the provisons of section three hundred five, or shall file a claim petition with the board against such employer, he may file a certified copy thereof with the prothonotary of the court of common pleas of any county. The prothonotary shall enter the amount stipulated in any such agreement or claimed in any such petition as a judgment against the employer. If the agreement be approved by the department, or compensation awarded as claimed in the petition, the amount of compensation stipulated in the agreement or claimed in the petition shall be a lien, as of the date when the agreement or petition was filed with the prothonotary. Pending the approval of the agreement or the award of compensation, no other lien which may be attached to the employer's property during such time shall gain priority over the lien of such agreement or award, but no execution shall issue on any compensation judgment before the approval of the agreement or the award of compensation on the said petition.

Disallowance of compensation— judgment stricken off.

If the agreement be disapproved, or, after hearing, compensation shall be disallowed, the employer may file, with the prothonotary of any county, in which the petition or agreement is on record as a judgment, a certified copy of the disapproval of the agreement or disallowance of compensation, and it shall be the duty of such prothonotary to strike off the judgment.

Award modified —record modified.

If the amount of compensation claimed be disallowed, but another amount awarded, the compensation judgment shall be a lien to the extent of the award, as of the

date of filing the petition with the prothonotary, with the same effect as to other liens and the same disability to issue execution thereon as if the compensation claimed had been allowed. In such cases the prothonotary shall make such modification of the record as shall be appropriate.

Supplemental agreement, award of order —record modified, etc.

If the compensation payable under any agreement or award upon which judgment has been entered under the provisions of this section shall be modified, suspended, reinstated, or terminated by a supplemental agreement executed under the provisions of section four hundred and eight, or by an award or order made under the provisions of section four hundred and thirteen, any party to such judgment, at any time after such agreement has been approved by the department or after the expiration of the time allowed for an appeal from the award or order, may file with the prothonotary of the court of common pleas of any county in which the judgment is on record a certified copy of such supplemental agreement, award, or order, and it shall thereupon be the duty of the prothonotary to modify, suspend, reinstate, or satisfy such judgment in accordance with the terms of such supplemental agreement, award or order.

Default.

Execution may issue by first filing with the prothonotary an affidavit that there has been a default in payments of compensation due on any judgment for compensation, entered prior to the approval of the compensation agreement, or an award on petition, as soon as such agreement shall have been approved by the department, or such award made as evidenced by the approval of the board of the award or by a certified copy thereof.

Execution.

Execution shall in all cases be for the amount of compensation and interest thereon due and payable up to the date of the issuance of said execution, with costs, and further execution may issue from time to time as further compensation shall become due and payable, until full amount of the judgment with costs shall have actually been paid.

Section 429. If any party against whom a compensation agreement, award, or other order fixing the compensation payable under this act has been filed of record in any county of this Commonwealth in accordance with the provisions of section four hundred and twenty-eight of this article, or against whom judgment has been entered by the prothonotary of the court of common pleas of any county on any award or order of the board or a referee, shall, at any time, present to the board receipts or copies thereof, certified by any referee, showing the payment of compensation as required by the agreement or award in full to the date of presentation to the referee, the board shall issue a certificate to such party, in

the form prescribed, stating the extent to which the judgment on the agreement or award has been reduced. Upon the presentation of such certificate to the prothonotary of the court of common pleas of any county in which such agreement or award has been filed of record as a judgment, or in which judgment on an award has been entered by the prothonotary of the court of common pleas, it shall be the prothonotary's duty to mark such judgment satisfied to the extent of the payments so certified, and, upon the presentation to such prothonotary of a certificate issued by the board under the provisions of section three hundred and seventeen of this act, it shall be the duty of the prothonotary to mark such judgment fully satisfied.

Prothonotary's duty.

Lien not divested by appeal.

Section 430. The lien of any judgment entered upon any award shall not be divested by any appeal. If, however, the party appealing from the award shall file with the board a bond, in such amount and in such form as the rules and regulations of the board shall direct, the appeal shall, pending its decision, excuse the payment of so much of the compensation as is contested therein; but if the final decision on appeal shall sustain the award, it shall be the duty of the employer by whom such award is payable to make payments of compensation as from the date of the original award. If on appeal the award is sustained as to a part, it shall be the duty of the employer by whom such part is payable to make payments as from the date of the original award.

Where award annulled on appeal, judgment satisfied.

In case the award is annulled on appeal, it shall be the duty of the prothonotary of any county in which such award has been entered as a judgment to mark it satisfied.

Prothonotary's costs.

Section 431. The cost of the prothonotary for entering the amount of compensation as provided in this act, or making a modification of the record, or marking the judgment satisfied, shall be allowed, taxed, and collected as upon a confession of judgment on a judgment note.

Monthly report by prothonotary to board.

Section 432. It shall be the duty of the prothonotary of each court of common pleas and of the Superior Court of the Commonwealth, to make a monthly report to the board of the disposition of all appeals taken to such court under the provisions of this article.

Evidence.

Section 433. A document on file in the department or with the board or any referee, or part of the record of any proceedings taken under Articles * III and IV of this act, shall be approved by a copy thereof, certified by the department under the seal of the department, or certified by the chairman of the board and attested by

* "Article" in the original.

the secretary of the board under seal of the board, as the case may be.

Final receipt may be set aside.

Section 434. A final receipt, given by an employe or dependent entitled to compensation under a compensation agreement or award, shall be prima facie evidence of the termination of the employer's liability to pay compensation under such agreement or award: Provided, however, That the board, or a referee designated by the board, may, at any time within two years from the date to which payment is made as evidenced by such final receipt, set aside a final receipt, upon petition filed with the board, if it be conclusively proved that such receipt was procured by fraud, coercion, or other improper conduct of a party, or is founded upon mistake of law or of fact.

ARTICLE V

General Provisions

Claim for legal services.

Section 501. No claim or agreement for legal services or disbursements in support of any demand made or suit brought under the provisions of article two of this act shall be an enforceable lien against the amount to be paid as damages, or be valid or binding in any respect, unless the same be approved in writing by the judge presiding at the trial, or, in case of settlement without trial, by a judge of the common pleas court of the county in which the accident occurred.

Approval of court.

Claim or agreement for legal services to be passed upon by board.

No claim or agreement for legal services or disbursements in support of any claim for compensation, or in preparing any agreement for compensation, under article three of this act, shall be an enforceable lien against the amount to be paid as compensation, or be valid or binding in any other respect, unless the same be approved by the board. Any such claim or agreement shall be filed with the department, which shall, as soon as may be, notify the person by whom the same was filed of the board's approval or disapproval thereof, as the case may be.

Lien.

Proviso.

After the approval as herein required, if the employer be notified in writing of such claim or agreement for legal services and disbursements, the same shall be a lien against any amount thereafter to be paid as damages or compensation: Provided, however, That where the employe's compensation is payable by the employer in periodical instalments, the board shall fix, at the time of approval, the proportion of each instalment to be paid on account of legal services and disbursements.

No effect on rights accrued before this act.

Section 502. Nothing in this act shall affect or impair any rights of action which have accrued before this act shall take effect.

Constitutional provision.

Section 503. If any provision of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other section or provision of this act, except that articles * two and three are hereby declared to be inseparable and as one legislative thought, and if either article be declared by such court void or inoperative in an essential part so that the whole of such article must fall, the other article shall fall with it and not stand alone.

Section 504. The following acts are hereby specifically repealed:

Act of July 2, 1937 (P. L. 2714), repealed.

The act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws, twenty seven hundred fourteen), entitled "A supplement to the act, approved the second day of June, one thousand nine hundred fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended 'An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing a system and schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties,' as amended and re-enacted, providing for the inclusion of occupational diseases within the scope thereof, and providing definitions, provisions, and procedure related to such diseases; and making an appropriation."

Inconsistent acts repealed.

All other acts and parts of act inconsistent with the provisions of this act.

When effective.

Section 505. The provisions of this act shall become effective on October first, one thousand nine hundred and thirty-nine, except the provisions of section three hundred two of this act, which shall become effective immediately upon the final enactment of this act.

APPROVED—The 21st day of June, A. D. 1939.

ARTHUR H. JAMES

The foregoing is a true and correct copy of Act of the General Assembly No. 284.

SOPHIA M. R. O'HARA
Secretary of the Commonwealth.

* "article" in the original.

Section 426. The board, upon petition of any party and upon cause shown, at any time before the court of common pleas of any county of this Commonwealth *other than Allegheny County, and in Allegheny County before the county court of Allegheny County,* to which an appeal has been taken under the provisions of section four hundred and twenty-seven of this article shall have taken final action thereon, may grant a rehearing of any petition upon which the board has made an award or disallowance of compensation or other order or ruling, or upon which the board has sustained or reversed any action of a referee; but such rehearing shall not be granted more than one year after the board has made such award, disallowance, or other order or ruling, or has sustained or reversed any action of the referee. If the board shall grant a rehearing of any petition from the board's action on which an appeal has been taken to and is pending in, the court of common pleas, [of any county of this Commonwealth] *or in the county court of Allegheny County, as the case may be,* under the provisions of section four hundred and twenty-seven of this article, the board shall file in such court a certified copy of its order granting such rehearing, and it shall thereupon be the duty of such court to cause the record of the case to be remitted to the board: Provided, however, That nothing contained in this section shall limit or restrict the right of the board, or a referee designated by the board, to review, modify, set aside, reinstate, suspend, or terminate, an original or supplemental agreement, or an award in accordance with the provisions of section four hundred thirteen of this article.

Section 427. Any party may appeal from any action of the board on matters of the law to the court of common pleas of the county in which the accident occurred or of the county in which the adverse party resides or has a permanent place of business, or, by agreement of the parties, to the court of common pleas of any other county of this Commonwealth: *Provided, That no such appeal shall be taken to the court of common pleas of Allegheny County, but in Allegheny County all such appeals shall be taken to the county court of Allegheny County, which shall have exclusive jurisdiction of such appeals.* Such appeal must *in all cases* be brought within twenty days after notice of the action of the board has been served upon such party, unless any court of common pleas *or the county court of Allegheny County, as the case may be,* to which an appeal lies shall, upon cause shown, extend the time herein provided for taking the appeal. The party taking the appeal shall, at the time of taking the appeal, serve upon the adverse party a written notice thereof, setting forth the date of the appeal and the court in which the same is filed, and shall file, either with his notice of appeal, or within thirty days thereafter, such exceptions to the action of the board as he may desire to take, and shall specify the findings of fact, if any, of the board or of the referee sustained by the board, which he alleges to be unsupported by competent evidence.

Upon filing of the notice of an appeal, the prothonotary of the court of common pleas *or the clerk of the county court of Allegheny County, as the case may be,* to which the appeal has been taken shall issue a writ of certiorari directed to the board, commanding it, within ten days after service thereof, to certify to such court its entire record in the matter in which the appeal has been taken. The writ so issued shall be mailed by the prothonotary *or the clerk of the county court of Allegheny County, as the case may be,* to the department at Harrisburg, together with a copy of the exceptions. The board shall, within ten days after such service, certify to such court its entire record in the matter in which the appeal has been taken, including the notes of testimony.

Any court before whom an appeal is pending from any action of the board may remit the record to the board for more specific findings of fact, if the findings of the board or referee are not, in its opinion, sufficient to enable it to decide the question of law raised by the appeal.

If the court of common pleas of any county [of this Commonwealth] *or the county court of Allegheny County, as the case may be,* shall affirm an award or order of the board or of a referee sustained by the board, fixing the compensation payable under this act, the court shall enter judgment for the total amount stated by the award or order to be payable, whether then due and accrued or payable in future instalments. If such court shall sustain the appellant's exceptions to a finding or findings of fact and reverse the action of the board founded thereon, the court shall remit the record to the board for further hearing and determination, in which the procedure shall be the same as that hereinbefore provided in this article in the case of a petition presented to the board, except that the testimony taken in the original proceedings shall be considered as though taken in such further hearing.

The prothonotary of any court of common pleas *or the clerk of the county court of Allegheny County, as the case may be,* to which an appeal has been taken from the board shall send to the board a certificate of the judgment of the court as soon as rendered, with a copy of any opinion which may be filed in the case, and, within five days, shall give notice of such judgment, and the date thereof, by registered mail to each attorney-at-law appearing in the case at the address given by the attorney in the pleadings, and, if no attorney-at-law has appeared, by registered mail to the party or parties not represented by counsel. At the end of the period hereinafter allowed for an appeal from the judgment of the court, the record of the board shall be remitted to it by the prothonotary *or the clerk of the county court of Allegheny County, as the case may be,* unless an appeal shall have been taken to the Superior Court as hereinafter provided. If such appeal shall be taken, the record shall be remitted to the board by the prothonotary *or the clerk of the county court of Allegheny County, as the case may be,* on its return from the appellate court.

Any party may appeal to the Superior Court from the judgment of the court of common pleas *or the county court of Allegheny County* within thirty days after entry of said judgment, irrespective of the amount involved. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Superior Court, and the record so certified shall contain all that was before the court of common pleas *or the county court of Allegheny County, as the case may be.* Any appeal from the action of the board to a court of common pleas *or the county court of Allegheny County, as the case may be* and from it to the Superior Court shall take precedence over all other civil actions. The judgment of the Superior Court shall be final, unless an appeal therefrom is allowed as in the case of other judgments of that tribunal.

Upon the rendition of any judgment in the county court of Allegheny County hereunder, the party to whom such judgment is awarded shall be entitled to file in the office of the prothonotary of Allegheny County a transcript from the docket of the county court, showing the judgment so rendered, which judgment shall be entered upon the judgment index of said county in the same manner and with like effect as in the case of other judgments rendered by the county court of Allegheny County.

It is the intention of this act that all appeals from the Workmen's Compensation Board heretofore triable in the court of common pleas of Allegheny County shall henceforth be exclusively triable in the county court of Allegheny County, regardless of the amount of money involved in the appeal.

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